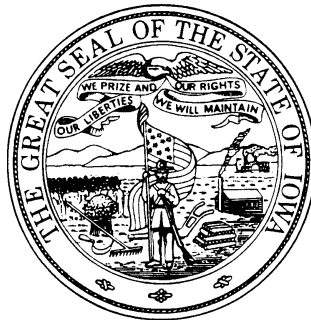


# IOWA COURT RULES

**FIFTH EDITION**

**September 2009 Supplement**



Published under the authority of Iowa Code section 2B.5(2).

KATHLEEN K. WEST  
ADMINISTRATIVE CODE EDITOR

## PREFACE

The Fifth Edition of the Iowa Court Rules was published in July 2009 pursuant to Iowa Code section 2B.5(2). Subsequent updates to the Iowa Court Rules, as ordered by the Supreme Court, are published in electronic format only and include chapters that have been amended or adopted.

The Iowa Court Rules and related court documents are available on the Internet at <http://www.legis.state.ia.us/aspx/CourtRules/pubDateListing.aspx>.

To receive e-mail notification of the publication of a Supplement to the Iowa Court Rules, subscribe at <http://www.legis.state.ia.us/maillist/PublicationLists.html>.

**Inquiries:** Inquiries regarding access to the Iowa Court Rules should be directed to the Legislative Services Agency's Computer Services Division Help Desk at (515)281-6506.

**Citation:** The rules shall be cited as follows:

Chapter 1	Iowa R. Civ. P.
Chapter 2	Iowa R. Crim. P.
Chapter 5	Iowa R. Evid.
Chapter 6	Iowa R. App. P.
Chapter 32	Iowa R. of Prof'l Conduct
Chapter 51	Iowa Code of Judicial Conduct

All other rules shall be cited as "Iowa Ct. R."

**Supplements:** Supplements to the Fifth Edition of the Iowa Court Rules have been issued as follows:

August 2009

## **September 2009 Supplement**

### **Changes in this supplement**

Rule 21.24.....	Amended	Rule 47.7.....	Renumbered
Rule 31.12.....	Amended	Rule 47.8.....	Renumbered
Rule 35.1.....	Amended	Rule 47.9.....	Renumbered
Rule 39.14.....	Amended	Rule 47.10.....	Renumbered
Rule 42.7.....	Amended	Rule 47.11.....	Renumbered
Rule 47.3.....	Amended	Rule 47.12.....	Renumbered
Rule 47.5.....	Amended	Rule 47.13.....	Renumbered
Rule 47.6.....	Adopted		

## **INSTRUCTIONS FOR UPDATING THE IOWA COURT RULES**

Replace Chapter 21  
Replace Chapter 31  
Replace Chapter 35  
Replace Chapter 39  
Replace Chapter 42  
Replace Chapter 47



## **CHAPTER 21**

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## CHAPTER 21 ORGANIZATION AND PROCEDURES OF APPELLATE COURTS

### ORGANIZATION OF SUPREME COURT

**Rule 21.1 Submission to the court.** Cases shall ordinarily be submitted en banc; however, the chief justice may provide for submission and consideration by less than the entire court.  
[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002]

**Rule 21.2 Absence of chief justice.** If the chief justice is absent or ill or from any other disability is unable to act and does not select some other member of the supreme court to act as chief justice during an absence or disability, the court shall select one of its other members to act during such time.  
[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002]

**Rules 21.3 to 21.10** Reserved.

### ORGANIZATION AND ADMINISTRATION OF COURT OF APPEALS

**Rule 21.11 Sitting en banc or in divisions.** The court of appeals may sit in divisions. The chief judge of the court of appeals shall determine whether a case will be submitted with or without oral argument and whether it will be submitted to a division of the court of appeals.  
[Court Order September 19, 1979; October 7, 1981; February 1, 1982; May 16, 1984; November 9, 2001, effective February 15, 2002]

**Rule 21.12 Party's challenge to nonoral or division assignment.** A party may state reasons in writing why a case should be submitted with oral argument or not be assigned to a division of the court of appeals. The statement, if any, shall be filed and served within seven days after the date of the notice that the case will be submitted without oral argument or to a division.  
[Court Order February 1, 1982; November 9, 2001, effective February 15, 2002]

**Rule 21.13 Division personnel.** The personnel of a division of the court of appeals shall not be permanent but may be changed from time to time by the chief judge or by vote of a majority of the judges of the court of appeals. The membership of a division shall be selected at random. A chief judge sitting on any division shall be the presiding judge. On a division of which the chief judge is not a member, the judge senior in precedence shall preside.  
[Court Order February 1, 1982; May 16, 1984; July 19, 1999; November 9, 2001, effective February 15, 2002]

**Rule 21.14 Court conferences.** A preliminary conference may be held for cases submitted to the court of appeals without oral argument. Prior to oral argument, cases shall ordinarily be randomly assigned to a judge for drafting of an opinion. Preliminary conferences on cases heard orally by the court of appeals ordinarily shall follow argument. A tentative vote shall be taken at the preliminary conference. Final conference on all cases ordinarily shall be by panel but may, at the option of the court, be en banc.  
[Court Order February 1, 1982; May 16, 1984; June 28, 1995, effective August 1, 1995; July 19, 1999; November 9, 2001, effective February 15, 2002]

**Rules 21.15 to 21.20** Reserved.

### APPELLATE OPERATING PROCEDURES

**Rule 21.21 Allocation of proceedings (cases).**

**21.21(1) Initial review.** All appellate proceedings shall be filed in the office of the supreme court clerk. Screening and evaluation of cases shall be undertaken by the supreme court for purposes of routing to the appropriate appellate court. All routing decisions shall be made by the supreme court. Decisions concerning the necessity and time allocated for oral argument shall be decided in the appropriate appellate court in accordance with the rules of appellate procedure.

**21.21(2) *Review by supreme court panel.*** Except as otherwise directed by a supervisory order of the chief justice, all proceedings shall be reviewed by a rotating panel of three justices of the supreme court to determine initially whether a case shall be retained by the supreme court for full appellate review, transferred to the court of appeals, or decided by summary disposition by the supreme court.

**21.21(3) *Summary disposition.*** Cases appropriate for summary disposition shall be retained by the supreme court for disposition by a brief per curiam opinion.

[Court Order September 19, 1979; May 27, 1988, effective July 1, 1988; November 9, 2001, effective February 15, 2002; February 27, 2008]

**Rule 21.22 Submissions to supreme court.** Causes not fully argued at the period for which assigned may be passed to a later period or be continued on the supreme court's own motion or on motion by a party.

[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002]

**Rule 21.23** Reserved.

**Rule 21.24 Oral argument.**

**21.24(1) *Governing principle.*** Oral argument in both the supreme court and court of appeals shall be governed by these rules and the rules of appellate procedure.

**21.24(2) *Limitations on oral argument.*** Oral argument shall not be granted as a matter of right. When oral argument is granted, time limitations shall be determined at the discretion of the court hearing the appeal.

[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002; June 3, 2009; August 10, 2009]

**Rule 21.25 Participation in and publication of opinions.** Each opinion of the supreme court and court of appeals shall show the justices or judges who participated in it. Opinions of the supreme court and opinions of the court of appeals to be published in accordance with rule 21.30 and Iowa R. App. P. 6.1209 shall be published by West Publishing Company commencing with and subsequent to 158 N.W.2d.

[Court Order September 19, 1979; December 20, 1989, effective February 15, 1990; February 19, 2001, effective July 1, 2001; November 9, 2001, effective February 15, 2002]

**Rule 21.26 Correction of opinions.**

**21.26(1)** The author of an opinion or the appropriate appellate court may correct typographical, grammatical or other formal errors in the opinion by filing a correction notice with the clerk of the supreme court. The correction notice shall be filed and kept with the opinion, and the author or appropriate appellate court shall cause the corrections to be inserted in the original opinion. If the opinion is to be published in the North Western Reporter and has not yet been published in a bound volume, and if the correction did not originate with West Publishing Company, the author or appropriate appellate court shall cause a copy of the correction notice to be transmitted immediately to West Publishing Company for insertion of the correction in the published opinion.

**21.26(2)** Changes in the substance of a supreme court opinion may be made only by action of that court before procedendo has been issued. Changes in the substance of an opinion by the court of appeals may be made only before supreme court ruling on any application for further review or, when no such application is filed, before issuance of procedendo. Such changes shall be made only by filing an order, amended opinion, or substituted opinion. The original opinion shall remain on file with the clerk and shall not be altered by interlining, expunging prior language, or any other means. [Court Order December 5, 1979, effective January 1, 1980; May 16, 1984; November 9, 2001, effective February 15, 2002]

**Rule 21.27 Consideration of petitions for rehearing.** Immediately upon the filing of a petition for rehearing pursuant to Iowa R. App. P. 6.1205, the clerk shall deliver copies of the petition to all justices of the supreme court. All petitions for rehearing shall be considered by the supreme court en banc.

[Court Order June 27, 1980; November 9, 2001, effective February 15, 2002]



**Rule 21.28 Opinions dealing with confidential material.** In an appeal in a juvenile case in which the juvenile court record is confidential under Iowa Code section 232.147, the supreme court or court of appeals shall refer to the parties in the caption and body of the opinion and other public court documents by first name or initial only. The same method of designation shall be used in any situation in which revealing a person's identity would have the effect of disclosing material which is required by statute or rule of the supreme court to be confidential.

[Court Order November 19, 1981; November 9, 2001, effective February 15, 2002]

**Rule 21.29 Memorandum opinions.**

**21.29(1) When appropriate.** Memorandum opinions may be used by the court of appeals and supreme court to dispose of cases when appropriate. A short memorandum opinion may be used when any of the following occur:

- a. The issues involve only the application of well-settled rules of law to a recurring fact situation.
- b. The issue is whether the evidence is sufficient to support a jury verdict, a trial judge's finding of fact or an administrative agency's finding, and the evidence is sufficient.
- c. Disposition of the proceeding is clearly controlled by a prior published holding of the court deciding the case or of a higher court.
- d. The record of the proceeding includes an opinion of the court or agency whose decision is being reviewed, the opinion identifies and considers all the issues presented and the appellate court approves of the reasons and conclusions in the opinion.
- e. A full opinion would not augment or clarify existing case law.

**21.29(2) Contents.** Memorandum opinions should contain all of the following information:

- a. The name and number of the case.
- b. Appellant's contentions when appropriate.
- c. The reasons for the result, briefly stated.
- d. The disposition.

[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002]

**Rule 21.30 Publication of court of appeals opinions.**

**21.30(1) Policy.** The principal role of the court of appeals is to dispose justly of a high volume of cases. In order to achieve maximum productivity without sacrificing quality, the court of appeals must devote time, which otherwise might be used in writing and revising full opinions, to deciding cases.

**21.30(2) Criteria for publication.** An opinion of the court of appeals may be published only when at least one of the following criteria is satisfied:

- a. The case resolves an important legal issue.
- b. The case concerns a factual situation of broad public interest.
- c. The case involves legal issues which have not been previously decided by the Iowa Supreme Court.

**21.30(3) Authority for publication.** Subject to this rule, the court of appeals, by majority vote of its members en banc, shall decide which of its opinions shall be published. Its decision to publish an opinion shall be reflected in an order filed with the clerk within 30 days after the opinion becomes final. A copy of the order shall be provided to the state court administrator. An opinion may be published only after it is final. Denial of further review shall not constitute approval by the supreme court of the opinion sought to be reviewed. When further review is granted, the supreme court shall decide whether the court of appeals opinion will be published.

**21.30(4) Manner of publication.** Opinions of the court of appeals which are approved for publication shall be transmitted by the chief judge of the court of appeals to West Publishing Company for publication in the North Western Reporter.

**21.30(5) Abstracts of opinions not otherwise published.** The state court administrator shall cause to be published an abstract of each opinion of the court of appeals not approved for publication. The abstracts shall consist of the title, docket number, date of decision and disposition of each case. The abstracts shall be published quarterly in the North Western Reporter.

[Court Order September 19, 1979; March 3, 1981; February 1, 1982; June 10, 1983; August 31, 2001; November 9, 2001, effective February 15, 2002; August 29, 2002]

**Rule 21.31 Costs in court of appeals.** Costs in the court of appeals shall be the same as in the supreme court.

[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002]

**Rule 21.32 Application to supreme court for further review.**

**21.32(1)** An application for further review shall be deemed submitted for consideration by the supreme court when the time for filing a resistance to the application has expired. In those cases in which a resistance is not allowed unless ordered by the court and no resistance has been ordered, an application for further review shall be deemed submitted when the time for filing an application has expired.

**21.32(2)** The supreme court en banc shall consider each application for further review and resistance. The affirmative vote of at least four justices shall be required to grant an application for further review. If an application is granted, the supreme court shall determine the scope and manner of submission.

[Court Order September 19, 1979; June 1, 2000, effective November 11, 2000; November 9, 2001, effective February 15, 2002; January 24, 2003; November 23, 2004]

**Rule 21.33 Distribution of printed papers.** For cases retained by the supreme court or in which an application for further review was granted, the clerk of the supreme court shall make the following distribution of the papers which are printed or duplicated in the manner prescribed in Iowa R. App. P. 6.903 and 6.905: a copy to each justice of the supreme court, the state law library, the library of the University of Iowa College of Law and the law library of Drake University. The remainder of such papers shall be placed in the clerk's office, with one copy to be kept permanently there or in the state historical department archives. For cases transferred to the court of appeals in which an application for further review was not granted, the clerk shall distribute a copy of the printed or duplicated papers to each judge of that court and to the state law library; the remainder shall be placed in the clerk's office, with one copy to be kept permanently there or in the state historical department archives. When a court of appeals opinion is approved for publication, the clerk shall make the following additional distribution of the printed or duplicated papers in the case: a copy to the library of the University of Iowa College of Law and to the law library of Drake University.

[Court Order September 19, 1979; May 22, 1990, effective July 2, 1990; November 9, 2001, effective February 15, 2002]

**Rule 21.34 Petitions, applications, requests, and motions in supreme court.**

**21.34(1)** *Clerk's examination of papers.* The clerk of the supreme court or the deputy clerk shall examine each petition, application, request, motion or similar paper (called "motions" in this rule) filed in the clerk's office regarding matters in the supreme court to determine whether:

a. The clerk or deputy has authority to rule on the motion pursuant to Iowa R. App. P. 6.1002(7), or

b. The motion may be resisted and be ruled upon pursuant to Iowa Rs. App. P. 6.1002(2) and 6.1002(5) and 6.1002(6), or

c. The motion demands the immediate attention of the supreme court.

**21.34(2)** *Motions for procedural orders.* If the clerk or the deputy clerk determines that a motion is for a procedural order and that it may be ruled on under Iowa R. App. P. 6.1002(7), the clerk or the deputy clerk shall do any of the following:

a. Promptly rule on the motion and send copies of the order to the interested parties or their attorneys of record.

b. If the clerk or deputy clerk determines a resistance would be helpful, set the matter for nonoral consideration pursuant to Iowa R. App. P. 6.1002(8), before ruling on the motion or forwarding it to a justice.

c. Request the assistance of central staff research attorneys, before ruling on the motion or forwarding it to a justice.

d. Forward the motion to a justice with a request that a justice rule on the motion and a statement of the reason for the request.

**21.34(3)** *Action on substantive motions.*

a. When all the nonmoving parties have resisted or the time for resistance has expired, the clerk shall promptly deliver the motion and all relevant papers directly to a justice or to central staff research attorneys, who shall prepare a memorandum, if necessary, and proposed order on the motion. The

memorandum shall be confidential. The staff attorneys shall promptly send to the justice to whom the motion is assigned a copy of the motion, resistance and attachments filed by the parties; any transcript or other relevant papers, and an original and one copy of any memorandum and proposed order unless otherwise directed by the assigned justice.

*b.* If the memorandum recommends relief that cannot be granted by a single justice under Iowa R. App. P. 6.1002(5), the staff attorneys shall send copies of the motion, resistance, attachments, memorandum and proposed order to two other justices to participate in the consideration of the motion. The justices will then consider the motion and the justice to whom the motion is assigned will sign the proposed order, or draft and sign an order. The order shall recite the names of the three justices considering the motion.

*c.* After a justice has signed an order, the justice shall arrange for its delivery to the supreme court clerk's office and for the mailing of copies of the order to the parties. The clerk's office shall contact the parties regarding any order requiring immediate notification.

*d.* If a motion which should proceed pursuant to Iowa Rs. App. P. 6.1002(2) and 6.1002(5) and 6.1002(6) is filed directly with a justice, the justice will note on the original the date of filing and transmit the original to the clerk in accordance with Iowa R. App. P. 6.701. The clerk and staff attorneys shall then proceed with the motion pursuant to this subrule unless otherwise directed by the justice.

**21.34(4)** *Motions demanding immediate attention.* Motions demanding the immediate attention of the supreme court include, but are not limited to, the following: motions for an immediate temporary stay of proceedings pending consideration of request for a stay during appeal; motions for immediate temporary injunctive relief; motions for an order affecting the immediate custody of a child; motions for any temporary relief when substantial rights would otherwise apparently be lost or be greatly impaired by delay, and motions requesting relief of an emergency nature. If the clerk or the deputy clerk determines that a motion demands the immediate attention of the court, the motion and relevant papers shall be immediately delivered with an explanation of the urgency involved for appropriate disposition to a justice who maintains a Des Moines office. The clerk and staff attorneys shall provide assistance on request.

**21.34(5)** *Motion calendar.* The clerk and central staff shall maintain a confidential calendar of motions requiring action by one or more justices, and the calendar shall ordinarily include:

Docket number.

Case name.

Name of motion indicating relief sought.

Date of filing motion.

Justice, if any, with whom filed.

Justice to whom assigned.

Any other participating justices.

Date of ruling on motion.

**21.34(6)** *Justices to whom motions are assigned.* The justice to whom a motion is assigned shall be determined at random but in a manner to ensure substantially equal division of work. When necessary or desirable, additional justices will participate in considering a motion.

[Court Order September 19, 1979; October 1, 1979; July 19, 1984; May 7, 1986, effective June 2, 1986; November 9, 2001, effective February 15, 2002]



## **CHAPTER 31**

### **ADMISSION TO THE BAR**

Rule 31.1	Board of law examiners
Rule 31.2	Registration by law students
Rule 31.3	Required examinations
Rule 31.4	Transfer and banking of MBE scaled scores
Rule 31.5	Bar examination application—contents and deadlines
Rule 31.6	Fee
Rule 31.7	Affidavit of intent to practice
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Rule 31.9	Moral character and fitness
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Rule 31.12	Admission of attorneys from other jurisdictions—requirements and fees
Rule 31.13	Proofs of qualifications; oath or affirmation
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Rule 31.16	Registration of house counsel
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Form 1:	Application for Admission Pro Hac Vice — District Court
Form 2:	Application for Admission Pro Hac Vice — Supreme Court
Form 3:	Registration statement for lawyer engaging in temporary practice following determination of major disaster



## CHAPTER 31 ADMISSION TO THE BAR

### Rule 31.1 Board of law examiners.

#### 31.1(1) *Composition.*

a. The board of law examiners shall consist of five persons admitted to practice law in this state and two persons not admitted to practice law in this state. Members shall be appointed by the supreme court. A member admitted to practice law shall be actively engaged in the practice of law in this state.

b. Appointment shall be for three-year terms and shall commence on July 1 of the year in which the appointment is made. Vacancies shall be filled for the unexpired term by appointment of the supreme court. Members shall serve no more than three terms or nine years, whichever is less.

c. The members thus appointed shall sign a written oath to faithfully and impartially discharge the duties of the office and shall file the oath in the office of professional regulation. They shall be compensated for their services in accordance with the provisions of Iowa Code section 602.10106.

d. The supreme court may appoint temporary examiners to assist the board, who shall receive their actual and necessary expenses to be paid from funds appropriated to the board.

e. The members of the board of law examiners and the temporary examiners shall be paid a per diem in an amount to be set by the supreme court for each day spent in conducting the examinations of the applicants for admission to the bar and in performing and conducting administrative duties and shall also be reimbursed for additional expenses<sup>1</sup> necessarily incurred in the performance of such duties.

f. The assistant director for admissions of the office of professional regulation shall serve as the principal administrator for the board of law examiners. Wherever in this chapter a reference to the “assistant director” appears, it shall refer to the assistant director for admissions of the office of professional regulation.

g. The board shall have an administrative committee consisting of the chair, the director of the office of professional regulation and a nonlawyer member of the board appointed by the court. The administrative committee shall, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget covering the board’s operations for the upcoming fiscal year. Approval of the budget by the court shall authorize payment as provided in the budget. A separate bank account designated as the admissions operating account shall be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement shall be deposited in the admissions operating account for payment of the board’s authorized expenditures.

h. Claims against members of the board and the director, assistant directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

#### 31.1(2) *Duties.*

a. The board may adopt rules to govern the method of conducting the bar examination. Such rules shall be consistent with these rules and are subject to supreme court approval.

b. The authority to pass on the sufficiency of applications for permission to take the bar examination is vested in the board of law examiners, subject to review by the supreme court.

c. The members of the board authorized to grade examinations shall make the final decision on passage or failure of each applicant, subject to the rules of the supreme court. The board shall also recommend to the supreme court for admission to practice law in this state all applicants who pass the examination and who meet the requisite character and fitness requirements. The board, in its discretion, may permit an applicant to take the bar examination prior to finally approving that person as to character and fitness. It may impose specific conditions for admission based on its evaluation of character and fitness and shall withhold recommendation of admission until those conditions are satisfied. An applicant who passes the bar examination shall satisfy such character and fitness conditions and any other conditions imposed by the board within one year of the date of the applicant’s passage of the examination. This period may be extended by the board upon the applicant’s showing of good cause. If any conditions imposed are not satisfied within the applicable period of time, the applicant’s passage of the examination is null and void and the applicant must

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1. See Iowa Ct. Rs. 22.19, 22.20, 22.21(2).

retake the bar examination in order to gain admission. The supreme court shall make the final determination as to those persons who shall be admitted to practice in this state.

[Court Order July 2, 1975; September 20, 1976; April 17, 1990, effective June 1, 1990; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; November 9, 2001, effective February 15, 2002; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008]

### **Rule 31.2 Registration by law students.**

**31.2(1)** Every person intending to apply for admission to the bar of this state by examination shall, by November 1 of the year in which the person commences the study of law in an accredited law school, register with the Iowa board of law examiners on forms furnished by the board and pay the required fee of \$25. The board may designate data submitted as a confidential record. Any confidential data shall be segregated by the board and the assistant director from the portion of the registration filed as a public record.

**31.2(2)** If any person shall fail to so register, the board may, if it finds that a strict enforcement of this rule would work a hardship and that sufficient excuse exists for failing to comply with rule 31.2(1), waive the requirements of this rule as to the date of filing. Refusal of the board to waive such requirement shall be subject to review by the supreme court. If the registration is not on file by the November 1 registration deadline, but is on file by December 1 preceding the July examination or July 1 preceding the February examination, the registration fee will be \$75. If the registration is not on file by the November 1 registration deadline, but is on file by April 1 preceding the July examination or November 1 preceding the February examination, the registration fee will be \$150. This fee is not refundable and shall be in addition to the fee required under rule 31.6. The failure to file the registration by the November 1 deadline of rule 31.2(1) may result in delays in conducting the board's character and fitness investigation. The board will not expedite its character and fitness investigation because the registration form is not timely filed. The registrant will not be eligible for admission to the bar until the character and fitness process is completed.

**31.2(3)** Registration as a law student under this rule is not deemed an application for permission to take the bar examination.

**31.2(4)** The registration shall be accompanied by letters prepared by three persons not related to applicant by consanguinity or affinity attesting to the registrant's good moral character.

**31.2(5)** The board shall review each registration and may require the personal presence of any registrant at such time and place as the board may prescribe for interview and examination concerning the registrant's character and fitness. The board may at any time find it advisable to make further inquiry into the character, fitness and general qualifications of the registrant, and with regard to each registration, the board shall have all of the powers given it in respect to inquiry and investigation of candidates for admission to the bar.

[Court Order July 2, 1975; September 20, 1976; December 16, 1983—received for publication May 30, 1984; February 16, 1990, effective March 15, 1990; April 16, 1992, effective July 1, 1992; March 26, 1993, effective July 1, 1993; December 2, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 112); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; April 9, 2009]

### **Rule 31.3 Required examinations.**

**31.3(1)** *Iowa bar examination.* Beginning with the February 2009 administration of the Iowa bar examination, the provisions of this rule shall apply to the dates and content of the bar examination.

*a.* Written examinations for admission to the bar shall be held in Polk County, Iowa, commencing with a mandatory orientation session on the Monday preceding the last Wednesday in February and on the Monday preceding the last Wednesday in July.

*b.* The examination shall consist of three components: the Multistate Essay Examination (MEE), the Multistate Bar Examination (MBE), and the Multistate Performance Test (MPT). There shall be one three-hour MEE session consisting of six questions, one MPT session consisting of two 90-minute performance tests, and two MBE sessions consisting of 100 multiple-choice questions each. The MEE portion of the examination shall consist of questions selected by the board from the following subjects:

- (1) Business associations
  1. Agency and partnership
  2. Corporations and LLCs
- (2) Conflict of laws



- (3) Constitutional law (Federal)
- (4) Contracts (including Uniform Commercial Code (Sales) (Art. 2))
- (5) Criminal law and procedure
- (6) Evidence (based on the Federal rules of evidence)
- (7) Family law
- (8) Federal civil procedure
- (9) Real property
- (10) Torts
- (11) Trusts and Estates
  - 1. Decedents' estates
  - 2. Trusts and future interests
- (12) Uniform Commercial Code
  - 1. Negotiable instruments (Commercial Paper) (Art. 3)
  - 2. Secured transactions (Art. 9)

Some MEE questions may include issues from more than one area of law. Conflict of laws issues are embedded in the other MEE topic areas. They do not appear as stand-alone questions. Uniform Commercial Code issues may require the applicants to know the general principles and applicable definitions set forth in Art. 1. Complete subject matter outlines for the MEE are available on the website of National Conference of Bar Examiners.

c. Applicants must achieve a combined scaled score of 266 or above in order to pass the examination. All passes and all failures shall be on a vote of at least four members of the board of law examiners admitted to practice law in Iowa.

**31.3(2) *Multistate Professional Responsibility Examination.*** Every applicant for admission to practice law in the state of Iowa must have on file with the assistant director examination results from the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners no later than April 1 preceding the July examination or November 1 preceding the February examination. Each applicant must obtain a scaled score of at least 80 in order to be admitted to practice law in Iowa. MPRE scores shall only be accepted for three years after the date the MPRE is taken.

It is the responsibility of the applicant to ensure that a score report from the National Conference of Bar Examiners is sent to the assistant director by the date indicated above.

[Court Order July 2, 1975; September 17, 1984; October 23, 1985, effective November 1, 1985; January 3, 1996; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 101); July 26, 1996; September 12, 1996; October 3, 1997; July 11, 2000; November 9, 2001, effective February 15, 2002; August 28, 2006; June 5, 2008, effective July 1, 2008; September 17, 2008]

#### **Rule 31.4 Transfer and banking of MBE scaled scores.**

**31.4(1)** Applicants may transfer any MBE scaled score they received in another jurisdiction from one of the last four administrations of the MBE immediately preceding the deadline for filing the application for the Iowa bar examination. Applicants must indicate their intent to transfer an MBE score on their bar application. The applicant's MBE score from a prior examination must be certified from the other jurisdiction or the National Conference of Bar Examiners by November 1 preceding the February examination and by April 1 preceding the July examination. Applicants may not transfer MBE scaled scores from a concurrent administration of the test.

**31.4(2)** Applicants may rely upon an MBE scaled score obtained on one of the last four Iowa bar examination administrations immediately preceding the deadline for filing the application for a subsequent bar examination. Applicants choosing to rely upon their prior MBE scaled score shall indicate their intention on the bar application form.

**31.4(3)** Applicants who choose to rely on a transferred or banked MBE scaled score shall only be required to take the MPT and MEE portions of the bar examination. Such applicants will not be permitted to take the MBE portion of the examination. Applicants who fail to meet the above deadlines for indicating their intention to transfer or bank MBE scores will not be allowed to do so and must sit for all portions of the Iowa examination. It is the applicant's responsibility to ensure that the scaled MBE score is sent to the assistant director by the pertinent date indicated above.

[Court Order June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 102); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; September 17, 2008]

**Rule 31.5 Bar examination application—contents and deadlines.**

**31.5(1)** The board of law examiners and the assistant director shall prepare such forms as may be necessary for application for examination. The application shall require the applicant to demonstrate the applicant is a person of honesty, integrity, and trustworthiness, and one who appreciates and will adhere to the Iowa Rules of Professional Conduct as adopted by the supreme court, together with such other information as the board and the assistant director determine necessary and proper.

**31.5(2)** Every applicant for admission to the bar shall make application, under oath, and upon a form furnished by the assistant director. The applicant shall file the application with the assistant director no later than April 1 preceding the July examination or November 1 preceding the February examination. An applicant who fails the Iowa bar examination and wants to take the next examination must file a new application within 30 days of the date the applicant's score is posted in the office of professional regulation. There shall be no waiver of these deadlines. If any changes occur after the application is filed which affect the applicant's answers, the applicant must amend the application. A new and complete application shall be filed for each examination for admission.

**31.5(3)** The board may designate portions of the data submitted for this purpose by the applicant or third parties as a confidential record. The board and the assistant director shall segregate that portion of the application data deemed confidential from the portion which is filed as a public record. In the event of a request for a hearing on character or fitness under rule 31.11(4) following an initial determination by the board, it may designate any additional information received at the hearing and all proceedings before the board as a confidential record.

[Court Order October 14, 1968; July 2, 1975; November 21, 1977; March 20, 1987, effective June 1, 1987; February 16, 1990, effective March 15, 1990; March 26, 1993, effective July 1, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 103); November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 20, 2007, effective July 1, 2007; June 5, 2008, effective July 1, 2008; September 17, 2008]

**Rule 31.6 Fee.** Every applicant for admission to the bar upon examination shall, as a part of the application, remit to the Iowa board of law examiners a fee in the amount of \$325. This fee is not refundable and cannot be applied to a subsequent application.

[Court Order July 2, 1975; December 16, 1983—received for publication May 30, 1984; April 16, 1992, effective July 1, 1992; March 26, 1993, effective July 1, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 113); October 11, 2001; November 9, 2001, effective February 15, 2002]

**Rule 31.7 Affidavit of intent to practice.** All applicants for the Iowa bar examination shall demonstrate a bona fide intention to practice law in Iowa. This showing must be by affidavit made before an officer authorized to administer oaths and having a seal.

The affidavit must include the applicant's designation of the clerk of the supreme court as the applicant's agent for service of process in Iowa for all purposes.

[Court Order July 2, 1975; November 21, 1977; October 28, 1982; December 30, 1983; April 25, 1985; March 23, 1994, effective July 1, 1994; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 105); November 9, 2001, effective February 15, 2002]

**Rule 31.8 Degree requirement.** No person shall be permitted to take the examination for admission without proof that the person has received the degree of LL.B. or J.D. from a reputable law school fully approved by the American Bar Association. Proof of this requirement shall be by affidavit of the dean of such law school, and shall show that the applicant has actually and in good faith pursued the study of law resulting in the degree required by this rule. The affidavit must be made before an officer authorized to administer oaths and having a seal.

If an applicant is a student in such a law school and expects to receive the degree of LL.B. or J.D. within 45 days from the first day of the July or February examination, the applicant shall be permitted to take the examination upon the filing of an affidavit by the dean of said school stating that the dean expects the applicant to receive such a degree within this time. No certificate of admission or license to practice law shall be issued until the applicant has received the required degree. If the applicant fails to obtain the degree within the 45-day period, the results of the applicant's examination shall be null and void.

[Court Order July 15, 1963; February 9, 1967; December 30, 1971; February 15, 1973; July 2, 1975; November 21, 1977; June 13, 1983; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 106); May 2, 1997; November 9, 2001, effective February 15, 2002]

**Rule 31.9 Moral character and fitness.**

**31.9(1)** The Iowa board of law examiners shall make an investigation of the moral character and fitness of any applicant and may procure the services of any bar association, agency, organization, or individual qualified to make a moral character or fitness report.

Immediately upon the filing of the application, the chairperson of the Iowa board of law examiners shall notify the president of a local bar association and the county attorney of the county in which the applicant resides of the filing of the application. If either of said officers is possessed of information which reflects adversely on the moral character or fitness of the applicant, such information shall be transmitted to the chairperson of the board of law examiners not less than 60 days in advance of the holding of the examination.

The Iowa board of law examiners shall, subject to review by the supreme court, determine whether or not the applicant is of good moral character and fitness.

**31.9(2)** The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who fails to comply with a support order.

*a. Procedure.* The child support recovery unit (the unit) shall file any certificate of noncompliance which involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.19(1), except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing from the applicant, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.19(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the unit for the sole purpose of allowing the unit to identify applicants subject to enforcement under Iowa Code chapter 252J or 598.

**31.9(3)** The Iowa supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the College Student Aid Commission.

*a. Procedure.* The College Student Aid Commission (the commission) shall file any certificate of noncompliance which involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.20(1), except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing from the applicant, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.20(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the court.

**31.9(4)** The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the centralized collection unit of the department of revenue (the unit).

*a. Procedure.* The unit shall file any certificate of noncompliance which involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.21(1), except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing from the applicant, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.21(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of a certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if

necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the unit for the sole purpose of allowing the unit to identify applicants subject to enforcement under Iowa Code chapter 272D.

[Court Order July 2, 1975; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 104); December 20, 1996; November 25, 1998; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008]

**Rule 31.10 Preservation of anonymity.** Each applicant permitted to take the bar examination shall be randomly assigned a number at the beginning of the examination, by which number the applicant shall be known throughout the examination.

Either the assistant director or the director of the office of professional regulation, or their representatives, shall prepare a list of the applicants, showing the number assigned to each at the beginning of the examination, certify to such facts, seal said list in an envelope immediately after the beginning of said examination and retain the same sealed, in their possession, unopened until after the applicant's score has been properly recorded. The envelope shall then be opened in the presence of the Iowa board of law examiners and the correct name entered opposite the number assigned to each applicant, in the presence of the Iowa board of law examiners.

[Court Order July 2, 1975; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 107); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008]

**Rule 31.11 Appeal and review.**

**31.11(1) One failed bar exam.** An applicant who has failed the Iowa bar examination only once shall have no right of appeal, but the applicant may apply to take a subsequent regular examination.

**31.11(2) Two or more failed bar exams.**

*a.* An applicant who has failed two or more Iowa bar examinations may appeal from the board's determination as to the scoring of the written portion of the bar examination as follows:

(1) The applicant, and the applicant's attorney if a member of the Iowa bar, may examine the applicant's most recent examination paper in the office of professional regulation and obtain copies thereof at the applicant's expense.

(2) Only an applicant who scored 260 points or higher on the exam may appeal.

(3) An applicant may appeal the scoring of no more than four of the applicant's answers.

(4) The applicant may file an appeal no later than 30 days after the date the applicant's score is posted in the office of professional regulation. The applicant shall file the original and one copy of the appeal with the assistant director. The appeal must comply with the following requirements:

1. The appeal shall specify which answers are being appealed and shall not contain any argument, analysis, or supporting authorities.

2. The appeal shall include all dates on which the applicant previously took Iowa bar examinations.

3. The appeal shall include the applicant's name, address, phone number, and e-mail address.

4. The appeal shall be signed by the applicant and the applicant's attorney, if any.

5. The applicant shall attach copies of those answers the applicant is appealing.

(5) The applicant shall pay an appeal fee of \$100.

*b.* When an appeal has been filed, the board shall apply the following procedures:

(1) The attorney members of the board will review each answer the applicant has appealed. The answers shall be submitted on an anonymous basis without oral argument or hearing. The applicant's other answers will not be considered. If at least three of those members agree that an answer should receive a different score (whether higher or lower), that score will be used to determine the applicant's scaled score.

(2) Following its review of those answers that the applicant has appealed, the board shall either affirm its previous decision or recommend to the supreme court that the applicant be admitted to the practice of law in Iowa. The original of the decision shall be filed with the supreme court clerk, and a copy shall be mailed by the clerk to the applicant at the address shown in the petition. The board's determination shall be subject to supreme court review in accordance with the provisions of rule 31.11(4).

**31.11(3) Denial of permission to take bar exam; denial of recommendation for admission.** When the board of law examiners determines that any person who registers or makes application should not

be permitted to take a bar examination, or that an applicant who has passed a bar examination should not be recommended for admission to practice law in Iowa, the board shall notify the applicant in writing of its determination.

a. The notice shall provide that the applicant is entitled to a hearing to challenge the determination upon filing a written request for hearing with the assistant director within ten days after service of the notice.

b. The assistant director shall serve the notice on the applicant by mail to the address shown on the person's application.

c. If no request for hearing is filed, the board's determination shall be final and not subject to review.

d. If a request for hearing is filed, the chairperson of the board shall appoint a lawyer member of the board to act as hearing officer. The hearing officer shall promptly set a hearing, and the assistant director shall notify the applicant by mail at least ten days before the hearing date of the time and place of hearing.

e. Not less than ten days before the hearing date the board shall furnish the applicant with copies of all documents and summaries of all other information relied on by the board in making its determination.

f. The clerk of court in the county where the hearing is held shall have authority to issue any necessary subpoenas for the hearing.

g. At the hearing the applicant shall have the right to appear in person and by counsel. The board may be represented by the attorney general of the State of Iowa or a duly appointed assistant attorney general. The hearing shall be reported. The hearing officer shall take judicial notice of the information considered by the board in the case and shall consider such additional evidence and arguments as may be presented at the hearing. At the hearing, the board shall first present any additional evidence or information that it deems necessary to the proceeding. Thereafter the applicant shall present evidence. The attorney for the board may offer rebuttal evidence at the discretion of the hearing officer. In presiding at the hearing the hearing officer shall have the power and authority possessed by administrative hearing officers generally.

h. Within 30 days after completion of the hearing, the hearing officer shall provide the board with a hearing transcript, exhibits, and written summary of the evidence, without fact findings or legal conclusions. Based on this information, the board shall make and file with the assistant director its final determination. The assistant director shall, by mail, promptly notify the applicant of the board's final determination.

**31.11(4) Review by supreme court.** Any applicant aggrieved by a final determination of the board made pursuant to rule 31.11(2)(b)(2) or rule 31.11(3)(h) may file a petition requesting review of the determination in the supreme court of Iowa within 20 days of the mailing of notice of final determination. If no such petition is filed within the 20-day period, the board's determination shall not be subject to review. A petition for review shall state all claims of error and reasons for challenging the board's determination. The board shall transmit to the supreme court its files and complete record in the case. Unless the court orders otherwise the petition shall be deemed submitted for the court's review on the record previously made. After consideration of the record, the court shall enter its order sustaining or denying the petition. The order of the court shall be conclusive. No subsequent application for admission by a person denied under rule 31.11(3)(h) shall be considered by the board unless authorized by the court upon the person's motion accompanied by a prima facie showing of a substantial change of circumstances.

**31.11(5) Costs of appeal.** In the event an applicant or person who is registered takes an appeal under rule 31.11(2) or 31.11(3) and is unsuccessful, the costs of the appeal shall be taxed against the unsuccessful applicant and judgment therefor may be entered in the district court of that person's county of residence, if an Iowa resident, or in the district court for Polk County if a nonresident.

[Court Order July 2, 1975; September 20, 1976; April 25, 1985; March 31, 1986, effective May 1, 1986; April 17, 1990, effective June 1, 1990; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 117.1) July 19, 1999; November 9, 2001, effective February 15, 2002; June 20, 2007, effective July 1, 2007; June 5, 2008, effective July 1, 2008]

#### **Rule 31.12 Admission of attorneys from other jurisdictions—requirements and fees.**

**31.12(1)** An applicant who meets the requirements of this rule and rule 31.13 may, in the discretion of the court, be admitted to the practice of law in this state without examination.

**31.12(2)** The applicant shall file the application with the National Conference of Bar Examiners through their online character and fitness application process at <http://www.ncbex.org/ea> unless an exception is granted by the Office of Professional Regulation. The applicant shall pay a nonrefundable fee of \$625 to the Office of Professional Regulation at the time of filing the application. The character investigation services of the National Conference of Bar Examiners shall be procured in all cases where application for admission on motion is made.

**31.12(3)** The application and supporting affidavits, which shall contain specific facts and details as opposed to conclusions and which shall be made before an officer authorized to administer oaths, must demonstrate the following:

- a. The applicant has a bona fide intention to practice law in Iowa.
- b. The applicant has been admitted to the bar of any other state of the United States or the District of Columbia, has practiced law five full years while licensed within the seven years immediately preceding the date of the application, and still holds a license.
- c. The applicant is a person of honesty, integrity, and trustworthiness, and one who will adhere to the Iowa Rules of Professional Conduct. In evaluating this factor the court may consider any findings filed with the Office of Professional Regulation by the Commission on the Unauthorized Practice of Law pursuant to Iowa Ct. R. 37.3.
- d. The applicant is not currently subject to lawyer discipline in any other jurisdiction.

**31.12(4)** The applicant shall provide such information as the court deems necessary and proper in connection with the application. If any changes occur that affect the applicant's answers, the applicant must immediately amend the application.

**31.12(5)** The applicant shall designate the supreme court clerk for service of process.

**31.12(6)** For purposes of this rule, the practice of law shall include the following activities:

- a. Representation of one or more clients in the practice of law.
- b. Service as a lawyer with a local, state, or federal agency.
- c. The teaching of law as a full-time instructor in a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association in this state or some other state.
- d. The discharge of actual legal duties as a member of one of the armed services of the United States, if certified as the practice of law by the judge advocate general of such service.
- e. Service as a judge in a federal, state, or local court of record.
- f. Service as a judicial law clerk.
- g. Service as corporate counsel.
- h. Service as an employee or officer of any business, but only if such service would ordinarily constitute the practice of law and was performed in a jurisdiction in which the applicant has been admitted to practice.

**31.12(7)** For purposes of this rule, the practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.

**31.12(8)** The following applicants shall not be eligible for admission on motion:

- a. An applicant who has failed a bar examination administered in this state within five years of the date of filing of the application under this rule.
- b. An applicant who has failed five or more bar examinations.

[Court Order July 2, 1975; September 20, 1976; February 12, 1981; Note September 30, 1981; Court Order December 17, 1982; December 30, 1983; April 23, 1985; November 8, 1985; March 31, 1986, effective May 1, 1986; November 21, 1991, effective January 2, 1992; November 30, 1994, effective January 3, 1995; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 114); May 2, 1997; October 11, 2001; November 9, 2001, effective February 15, 2002; February 22, 2002; April 20, 2005, effective July 1, 2005; August 6, 2007; February 14, 2008, effective April 1, 2008; October 15, 2008; August 10, 2009]

### **Rule 31.13 Proofs of qualifications; oath or affirmation.**

**31.13(1)** *Required certificates, affidavit, and fingerprint card.* The following proofs must be filed with the Office of Professional Regulation to qualify an applicant for admission under rule 31.12:

- a. A certificate of admission in the applicant's state of licensure.
- b. A certificate of a clerk or judge of a court of record, or of a judge advocate general or an administrative law judge, that the applicant was regularly engaged in the practice of law in said state for five years. If, due to the nature of the applicant's practice, the applicant cannot obtain a

certificate from a clerk, judge, judge advocate general, or an administrative law judge, the applicant shall file a petition seeking leave to file an alternative certificate demonstrating good cause why the certificate cannot be obtained. If the supreme court grants the petition, the applicant shall file an affidavit detailing the nature, dates, and locations of the applicant's practice, along with an affidavit of a supervising attorney or another lawyer attesting to the applicant's practice over that period.

c. A certificate of an applicant's good moral character from a judge or clerk of the Iowa district court or of a court where the applicant has practiced within the last five years.

d. An affidavit showing a bona fide intent to practice law in Iowa.

e. A completed fingerprint card.

**31.13(2) Oath or affirmation.**

a. An applicant whose application for admission without examination is granted must appear for admission before a supreme court justice unless the supreme court orders otherwise based upon a satisfactory showing of exceptional circumstances.

b. An applicant may file a petition seeking permission to be administered the lawyer's oath or affirmation in the jurisdiction in which the applicant is currently licensed or before a judge advocate general if the applicant is currently a member of one of the armed services of the United States. The petition must set forth in detail: the exceptional circumstances that render the applicant unable to appear for admission before a justice of the supreme court of Iowa in light of the applicant's professed intention to practice law in Iowa; the name, title, business address, and telephone number of the justice, judge, clerk of court, court administrator, or the judge advocate general who will administer the lawyer's oath or affirmation; and the statute or court rule authorizing that person to administer an oath or affirmation.

c. If the supreme court grants the petition, the Office of Professional Regulation shall forward all required documents to the applicant. The applicant will be deemed admitted to the Iowa bar on the date the completed documents are filed with the Office of Professional Regulation.

d. The applicant must take the lawyer's oath or affirmation from an Iowa justice, or file the completed paperwork from an out-of-state oath or affirmation, within six months after the date the application for admission on motion is granted or the application will be deemed to be denied.

[Court Order July 2, 1975; December 30, 1982; December 30, 1983; April 23, 1985; November 8, 1985; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 115); November 9, 2001, effective February 15, 2002; May 31, 2006; October 31, 2006; February 14, 2008, effective April 1, 2008; October 15, 2008]

**Rule 31.14 Admission pro hac vice before Iowa courts and administrative agencies.**

**31.14(1) Definitions.**

a. An "out-of-state" lawyer is a person who:

(1) Is not admitted to practice law in this state but who is admitted in another state or territory of the United States or of the District of Columbia, or is licensed to practice as a foreign legal consultant in any state or territory of the United States or of the District of Columbia; and

(2) Is not disbarred or suspended from practice in any jurisdiction.

b. An out-of-state lawyer is "eligible" for admission pro hac vice if any of the following conditions are satisfied:

(1) The lawyer lawfully practices solely on behalf of the lawyer's employer and its commonly owned organizational affiliates, regardless of where such lawyer may reside or work.

(2) The lawyer neither resides nor is regularly employed at an office in this state.

(3) The lawyer resides in this state but (i) lawfully practices from offices in one or more other states and (ii) practices no more than temporarily in this state, whether pursuant to admission pro hac vice or in other lawful ways.

c. An "in-state" lawyer is a person admitted to practice law in this state and is not disbarred or suspended from practice in this state.

d. A "client" is a person or entity for whom the out-of-state lawyer has rendered services or by whom the lawyer has been retained prior to the lawyer's performance of services in this state.

e. "This state" refers to Iowa. This rule does not govern proceedings before a federal court or federal agency located in this state unless that body adopts or incorporates this rule.

**31.14(2) Authority of court or agency to permit appearance by out-of-state lawyer.**

a. *Court proceeding.* A court of this state may, in its discretion, admit an eligible out-of-state lawyer, who is retained to appear as attorney of record in a particular proceeding, only if the out-of-state lawyer appears with an in-state lawyer in that proceeding.

*b. Administrative agency proceeding.* If practice before an agency of this state is limited to lawyers, the agency may, using the same standards and procedures as a court, admit an eligible out-of-state lawyer who has been retained to appear in a particular agency proceeding as counsel in that proceeding pro hac vice, only if the out-of-state lawyer appears with an in-state lawyer in that proceeding.

*c. Subsequent proceedings.* Admission pro hac vice is limited to the particular court or agency proceeding for which admission was granted. An out-of-state lawyer must separately seek admission pro hac vice in any subsequent district or appellate court proceeding.

**31.14(3) In-state lawyer's duties.** When an out-of-state lawyer appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the in-state lawyer, or in an advisory or consultative role, the in-state lawyer who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the in-state lawyer to do all of the following:

- a.* Appear of record together with the out-of-state lawyer in the proceeding.
- b.* Actively participate in the proceeding. See Iowa R. of Prof'l Conduct 32:5.5(c)(1).
- c.* Accept service on behalf of the out-of-state lawyer as required by Iowa Code section 602.10111.
- d.* Advise the client of the in-state lawyer's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the out-of-state lawyer.

**31.14(4) Application procedure.** An eligible out-of-state lawyer seeking to appear in a proceeding pending in this state as counsel pro hac vice shall file a verified application with the court or agency where the litigation is filed. The out-of-state lawyer shall serve the application on all parties who have appeared in the proceeding, and shall include proof of service. Application forms for admission pro hac vice can be found in rule 31.25.

**31.14(5) Required information for application.** An application filed by the out-of-state lawyer shall contain all of the following information:

- a.* The out-of-state lawyer's residence and business addresses.
- b.* The name, address, and phone number of each client sought to be represented.
- c.* The courts before which the out-of-state lawyer has been admitted to practice and the respective period of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.
- d.* Whether the out-of-state lawyer has been denied admission pro hac vice in this state. If so, specify the caption of the proceedings, the date of the denial, and what findings were made.
- e.* Whether the out-of-state lawyer has had admission pro hac vice revoked in this state. If so, specify the caption of the proceedings, the date of the revocation, and what findings were made.
- f.* Whether the out-of-state lawyer has been denied admission in any jurisdiction for reasons other than failure of a bar examination. If so, specify the jurisdiction, caption of the proceedings, the date of the denial, and what findings were made.
- g.* Whether the out-of-state lawyer has been formally disciplined or sanctioned by any court in this state. If so, specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings.
- h.* Whether the out-of-state lawyer has been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the out-of-state lawyer engaged in the unauthorized practice of law in this state or elsewhere. If so, specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings.
- i.* Whether any formal, written disciplinary proceeding has been brought against the out-of-state lawyer by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years, and as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings.
- j.* Whether the out-of-state lawyer has been placed on probation by a disciplinary authority in any other jurisdiction. If so, specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made.
- k.* Whether the out-of-state lawyer has been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders, and, if so:



the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. A copy of the written order or transcript of the oral rulings shall be attached to the application.

*l.* The name and address of each court or agency and a full identification of each proceeding in which the out-of-state lawyer has filed an application to appear pro hac vice in this state within the preceding two years, the date of each application, and the outcome of the application.

*m.* An averment as to the out-of-state lawyer's familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court or agency before which the out-of-state lawyer seeks to practice.

*n.* The name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the out-of-state lawyer's pro hac vice request.

*o.* An acknowledgement that service upon the in-state lawyer in all matters connected with the proceedings has the same effect as if personally made upon the out-of-state lawyer.

*p.* If the out-of-state lawyer has appeared pro hac vice in this state in five proceedings within the preceding two years, the application shall contain a statement showing good cause why the out-of-state attorney should be admitted in the present proceeding.

*q.* Any other information the out-of-state lawyer deems necessary to support the application for admission pro hac vice.

**31.14(6) *Objection to application.*** A party to the proceeding may file an objection to the application or seek the court's or agency's imposition of conditions to its being granted. The objecting party must file with its objection a verified affidavit containing or describing information establishing a factual basis for the objection. The objecting party may seek denial of the application or modification of it. If the application has already been granted, the objecting party may move that the pro hac vice admission be revoked.

**31.14(7) *Standard for admission.*** The courts and agencies of this state have discretion as to whether to grant applications for admission pro hac vice. If there is no opposition, the court or agency has the discretion to grant or deny the application summarily. An application ordinarily should be granted unless the court or agency finds one of the following:

*a.* The admission of the out-of-state attorney pro hac vice may be detrimental to the prompt, fair, and efficient administration of justice.

*b.* The admission of the out-of-state attorney pro hac vice may be detrimental to legitimate interests of parties to the proceedings other than a client the out-of-state lawyer proposes to represent.

*c.* One or more of the clients the out-of-state lawyer proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk.

*d.* The out-of-state lawyer has appeared pro hac vice in this state in five proceedings within the preceding two years, unless the out-of-state lawyer can show good cause exists for admission.

**31.14(8) *Revocation of admission.*** Admission to appear as counsel pro hac vice in a proceeding may be revoked for any of the reasons listed in rule 31.14(7).

**31.14(9) *Discipline, contempt, and sanction authority over the out-of-state lawyer.***

*a.* During the pendency of an application for admission pro hac vice and upon the granting of such application, an out-of-state lawyer submits to the authority of the courts of this state, the agencies of this state, and the Iowa Supreme Court Attorney Disciplinary Board for all conduct relating in any way to the proceeding in which the out-of-state lawyer seeks to appear. The out-of-state lawyer submits to these authorities for all of the lawyer's conduct (i) within the state while the proceeding is pending or (ii) arising out of or relating to the application or the proceeding. An out-of-state lawyer who has pro hac vice authority for a proceeding may be disciplined in the same manner as an in-state lawyer. *See Iowa R. Prof'l Conduct 32:8.5.*

*b.* The authority to which an out-of-state lawyer submits includes, but is not limited to, the enforcement of the rules of professional conduct, the rules of procedure of the Iowa Supreme Court Attorney Disciplinary Board, contempt and sanction procedures, applicable local rules, and court, agency, and board policies and procedures.

*c.* An out-of-state lawyer who appears before a court of this state or before an agency of this state when practice is limited to lawyers and who does not obtain admission pro hac vice is engaged in the unauthorized practice of law. *See Iowa R. Prof'l Conduct 32:5.5 cmt. 9.* If an out-of-state lawyer reasonably expects to be admitted pro hac vice, the lawyer may provide legal services that are in or

reasonably related to a pending or potential proceeding before a court or agency in this state. *See* Iowa R. Prof'l Conduct 32:5.5(c)(2).

**31.14(10) Familiarity with rules.** An out-of-state lawyer shall become familiar with the rules of professional conduct, the rules of procedure of the Iowa Supreme Court Attorney Disciplinary Board, the standards for professional conduct, local court or agency rules, and the policies and procedures of the court or agency before which the out-of-state lawyer seeks to practice.

[Court Order July 2, 1975; June 22, 1976; December 2, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 116); April 1, 1999; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; September 27, 2006; March 15, 2007; June 3, 2009]

### **Rule 31.15 Permitted practice by law students.**

**31.15(1)** A law student enrolled in a reputable law school as defined by rule 31.8 and Iowa Code section 602.10102 certified to the office of professional regulation by the dean of the school to have completed satisfactorily not less than the equivalent of three semesters of the work required by the school to qualify for the J.D. or LL.B. degree, may, under the following conditions, engage in the practice of law or appear as counsel in the trial or appellate courts of this state.

*a.* Appearance by students as defense counsel in a criminal matter in any court shall be confined to misdemeanors and shall be under the direct supervision of licensed Iowa counsel who shall be personally present.

*b.* Appearance by students in matters before the court of appeals or supreme court of Iowa shall be under the direct supervision of licensed Iowa counsel who shall be personally present.

*c.* Appearance by students in other matters shall be under the general supervision of licensed Iowa counsel, but such counsel need not be present in court unless required by order of the court.

**31.15(2)** A student who the dean certifies has completed not less than the equivalent of two semesters of work required to qualify for the J.D. or LL.B. degree may appear in a representative capacity in a contested case proceeding before an administrative agency. Appearance by students who have completed only two semesters of work shall be under the direct supervision of licensed Iowa counsel who shall be personally present.

**31.15(3)** No student may engage in the practice of law or appear as counsel in any court of this state or before an administrative agency unless such practice or appearance is part of an educational program approved by the faculty of the student's law school and not disapproved by the supreme court of the state of Iowa, and such program is supervised by at least one member of the law school's faculty.

**31.15(4)** A student shall not receive compensation other than general compensation from an employer-attorney or from a law-school-administered fund.

[Court Order April 4, 1967; May 15, 1972; January 14, 1974; April 8, 1975 [withdrawn]; April 9, 1975; April 8, 1980; April 28, 1987; June 5, 1996, effective July 1, 1996 (Prior to July 1, 1996, Court Rule 120); January 9, 1998, effective February 2, 1998; November 9, 2001, effective February 15, 2002; June 4, 2008, effective July 1, 2008]

### **Rule 31.16 Registration of house counsel.**

**31.16(1) Who must register.** Any person who is not admitted to practice law in the state of Iowa, but who is admitted to practice law in any other United States jurisdiction, and who maintains an office or a systematic and continuous presence in this state for the practice of law as house counsel for a corporation, association, or other business, educational, or governmental entity engaged in business in Iowa must register and will then be allowed to practice law in this state without examination or admission to the Iowa bar. For purposes of this rule, "United States jurisdiction" includes the District of Columbia and any state, territory, or commonwealth of the United States.

**31.16(2) Procedure for registering.** A lawyer applying for registration under this rule shall submit an affidavit to the office of professional regulation certifying that:

*a.* The applicant has been lawfully admitted to practice and is a lawyer in good standing in another United States jurisdiction;

*b.* The applicant has not been disbarred or suspended from practice in any jurisdiction and has never been convicted of a felony;

*c.* While serving as counsel, the applicant will perform legal services solely for a corporation, association, or other business, educational, or governmental entity, including its subsidiaries and affiliates;

d. While serving as counsel, the applicant will not provide personal legal services to the employer's officers or employees; and

e. Said corporation, association, or other business, educational, or governmental entity is not engaged in the practice of law or provision of legal services.

**31.16(3) Requirements for registration.** Prior to being registered to practice in Iowa, the applicant must:

a. Pay a \$200 registration fee to the Client Security Commission;

b. Provide the commission with the applicant's social security number, date of birth, and e-mail address; and

c. Submit the following documents to the office of professional regulation:

(1) Proof of admission in jurisdictions of licensure;

(2) A certificate of good standing from the highest court of each jurisdiction of admission;

(3) A certificate from the disciplinary authority of each jurisdiction of admission stating that the applicant has not been suspended, disbarred, or disciplined and that no charges of professional misconduct are pending; or that identifies any suspensions, disbarments, or other disciplinary sanctions that have been imposed upon the applicant, and any pending charges, complaints, or grievances; and

(4) An affidavit by the corporation, association, or other business, educational, or governmental entity for which the applicant intends to provide services, certifying that:

1. The applicant will be employed by the entity;

2. To the best of its knowledge the applicant has been lawfully admitted to practice and is a lawyer in good standing in another United States jurisdiction;

3. To the best of its knowledge the applicant has not been disbarred or suspended from practice in any jurisdiction and has never been convicted of a felony;

4. While serving as counsel, the applicant will perform legal services solely for the corporation, association, or other business, educational, or governmental entity, including its subsidiaries and affiliates;

5. While serving as counsel, the applicant will not provide personal legal services to the employer's officers or employees;

6. The corporation, association, or other business, educational, or governmental entity is not engaged in the practice of law or provision of legal services; and

7. The entity will promptly notify the Client Security Commission of the termination of the applicant's employment.

(5) Any other document required to be submitted by the supreme court.

**31.16(4) Court's discretion to approve registration.** The supreme court shall have the discretion to grant or deny an application or to revoke a registration. The court may procure the character investigation services of the National Conference of Bar Examiners, at the applicant's expense, in any matter in which substantial questions regarding the applicant's character or fitness to practice law are implicated. The director of the office of professional regulation shall issue a certificate of registration upon the supreme court's approval of the application.

**31.16(5) Discipline in other jurisdictions—notification.** A lawyer who is practicing law in Iowa under this registration provision must immediately inform the Iowa Supreme Court Attorney Disciplinary Board in writing of any disciplinary action commenced or any discipline or sanction imposed against the lawyer in any other jurisdiction.

**31.16(6) Limitation of activities.** Registration under this rule does not authorize a lawyer to provide services to the lawyer's employer for which pro hac vice admission is required. A lawyer registered under this rule must therefore comply with the requirements for pro hac vice admission under rule 31.14 for any appearances before a court or an administrative agency.

**31.16(7) Amnesty period.** Any lawyer not licensed in this state who is employed as house counsel in Iowa on the effective date of this rule, July 1, 2005, shall not be deemed to have been engaged in the unauthorized practice of law in Iowa prior to registration under this rule if application for registration is made within 12 months of that date.

**31.16(8) Practice pending registration.** Any lawyer who becomes employed as house counsel in Iowa after the effective date of this rule, July 1, 2005, shall not be deemed to have engaged in the unauthorized practice of law in Iowa prior to registration under this rule if an application for registration is made within 90 days of the commencement of such employment.

**31.16(9) *Annual statement and fee.*** Any lawyer registered under this rule shall file an annual statement and pay the annual disciplinary fee as required by Iowa Ct. Rs. 39.5 and 39.8.

**31.16(10) *Duration of registration—credit toward admission on motion.*** A lawyer may practice law in Iowa under this registration provision for a period of up to five years. If the lawyer intends to continue practicing law in Iowa, the lawyer must, prior to the expiration of the five-year period, apply for admission on motion. *See* Iowa Ct. R. 31.12. The period of time the lawyer practices law in Iowa under the registration provisions of this rule may be used to satisfy the duration-of-practice requirement under rule 31.12(3)(b).

**31.16(11) *Termination of employment.*** When a lawyer ceases to be employed as house counsel with the corporation, association, or other business, educational, or governmental entity submitting the affidavit under rule 31.16(3)(c)(4), the lawyer's authorization to perform legal services under this rule terminates unless the lawyer complies with the requirements of rule 31.16(12). When the registered employment ceases, the employer and the lawyer shall immediately notify the Client Security Commission in writing that the lawyer's employment has ended.

**31.16(12) *Change of employers.*** If, within 90 days of ceasing to be employed by the employer submitting the affidavit under rule 31.16(3)(c)(4), a lawyer becomes employed by another employer and such employment meets all requirements of this rule, the lawyer's registration shall remain in effect, if within said 90-day period there is filed with the Client Security Commission:

- a. Written notification by the lawyer indicating the date on which the prior employment terminated, the date on which the new employment commenced, and the name of the new employer;
- b. Certification by the former employer that the termination of the employment was not based upon the lawyer's character or fitness or the lawyer's failure to comply with this rule; and
- c. The affidavit specified in rule 31.16(3)(c)(4), duly executed by the new employer.

**31.16(13) *Discipline.*** A lawyer registered under this rule shall be subject to the disciplinary authority of this jurisdiction to the same extent as lawyers licensed to practice law in this state.

**31.16(14) *Denial of application or suspension of registration for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue.*** The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue. The procedure shall be governed by rule 31.9(4).

**31.16(15) *Denial of application or suspension of registration for failure to comply with an obligation owed to or collected by the College Student Aid Commission.*** The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with an obligation owed to or collected by the College Student Aid Commission. The procedure shall be governed by rule 31.9(3).

**31.16(16) *Denial of application or suspension of registration for failure to comply with a support order.*** The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with a support order. The procedure shall be governed by rule 31.9(2).

[Court Orders April 20, 2005, and July 1, 2005, effective July 1, 2005; September 1, 2005; June 16, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008]

### **Rule 31.17 Provision of legal services following determination of major disaster.**

**31.17(1) *Determination of existence of major disaster.*** Solely for purposes of this rule, this court shall determine when an emergency affecting the justice system, as a result of a natural or other major disaster, has occurred in:

- a. This state and whether the emergency caused by the major disaster affects the entirety or only a part of the state, or
- b. Another jurisdiction but only after such a determination and its geographical scope have been made by the highest court of that jurisdiction. The authority to engage in the temporary practice of law in this state pursuant to rule 31.17(3) shall extend only to lawyers who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services.

**31.17(2) *Temporary practice—pro bono services.*** Following the determination of an emergency affecting the justice system in this state pursuant to rule 31.17(1), or a determination that persons displaced by a major disaster in another jurisdiction and residing in this state are in need of pro bono services and the assistance of lawyers from outside of this state is required to help provide such assistance, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred,

suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this state on a temporary basis. Such legal services must be provided on a pro bono basis without compensation, expectation of compensation or other direct or indirect pecuniary gain to the lawyer. Such legal services shall be assigned and supervised through an established not-for-profit bar association, pro bono program or legal services program or through such organization(s) specifically designated by this court.

**31.17(3) *Temporary practice—legal services arising out of and reasonably related to a lawyer’s practice of law in another jurisdiction, or area of such other jurisdiction, where the disaster occurred.*** Following the determination of a major disaster in another United States jurisdiction, a lawyer who is authorized to practice law and who principally practices in that affected jurisdiction, and who is not disbarred, suspended from practice or otherwise restricted from practice in any jurisdiction, may provide legal services in this state on a temporary basis. Those legal services must arise out of and be reasonably related to that lawyer’s practice of law in the jurisdiction, or area of such other jurisdiction, where the major disaster occurred.

**31.17(4) *Duration of authority for temporary practice.*** The authority to practice law in this state granted by rule 31.17(2) shall end when this court determines that the conditions caused by the major disaster have ended except that a lawyer then representing clients in this state pursuant to rule 31.17(2) is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation, but the lawyer shall not thereafter accept new clients. The authority to practice law in this state granted by rule 31.17(3) shall end 60 days after this court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.

**31.17(5) *Court appearances.*** The authority granted by this rule does not include appearances in court except:

- a. Pursuant to this court’s pro hac vice admission rule; or
- b. If this court, in any determination made under rule 31.17(1), grants blanket permission to appear in all or designated courts of this state to lawyers providing legal services pursuant to rule 31.17(2).

**31.17(6) *Disciplinary authority and registration requirement.*** Lawyers providing legal services in this state pursuant to rule 31.17(2) or (3) are subject to this court’s disciplinary authority and the Iowa Rules of Professional Conduct as provided in Iowa R. of Prof’l Conduct 8.5. Lawyers providing legal services in this state under rule 31.17(2) or (3) shall, within 30 days from the commencement of the provision of legal services, file a registration statement with the office of professional regulation. A form for the registration statement can be found in rule 31.25. Any lawyer who provides legal services pursuant to this rule shall not be considered to be engaged in the unlawful practice of law in this state.

**31.17(7) *Notification to clients.*** Lawyers authorized to practice law in another United States jurisdiction who provide legal services pursuant to this rule shall inform clients in this state of the jurisdiction in which they are authorized to practice law, any limits of that authorization, and that they are not authorized to practice law in this state except as permitted by this rule. They shall not state or imply to any person that they are otherwise authorized to practice law in this state.

*The comment accompanying this rule explains and illustrates the meaning and purpose of the rule. The comment is intended as a guide to interpretation, but the text of the rule is authoritative.*

#### COMMENT

[1] A major disaster in this state or another jurisdiction may cause an emergency affecting the justice system with respect to the provision of legal services for a sustained period of time interfering with the ability of lawyers admitted and practicing in the affected jurisdiction to continue to represent clients until the disaster has ended. When this happens, lawyers from the affected jurisdiction may need to provide legal services to their clients, on a temporary basis, from an office outside their home jurisdiction. In addition, lawyers in an unaffected jurisdiction may be willing to serve residents of the affected jurisdiction who have unmet legal needs as a result of the disaster or, though independent of the disaster, whose legal needs temporarily are unmet because of disruption to the practices of local lawyers. Lawyers from unaffected jurisdictions may offer to provide these legal services either by traveling to the affected jurisdiction or from their own offices or both, provided the legal services are provided on a pro bono basis through an authorized not-for-profit entity or such other organization(s) specifically designated by this court. A major disaster includes, for example, a hurricane, earthquake, flood, wildfire, tornado, public health emergency or an event caused by terrorists or acts of war.

[2] Under rule 31.17(1)(a), this court shall determine whether a major disaster causing an emergency affecting the justice system has occurred in this state, or in a part of this state, for purposes of triggering rule 31.17(2). This court may, for example, determine that the entirety of this state has suffered a disruption in the provision of legal services or that only certain areas have suffered such an event. The authority granted by rule 31.17(2) shall extend only to lawyers authorized to practice law and not disbarred, suspended from practice or otherwise restricted from practice in any other manner in any other jurisdiction.

[3] Rule 31.17(2) permits lawyers authorized to practice law in another jurisdiction, and not disbarred, suspended from practice or otherwise restricted from practicing law in any other manner in any other jurisdiction, to provide pro bono legal services to residents of this state following a determination of an emergency caused by a major disaster; notwithstanding that they are not otherwise authorized to practice law in this state. Other restrictions on a lawyer’s license to practice law that would prohibit that lawyer from providing legal services pursuant to this rule include, but are not limited to, probation, inactive status,

disability inactive status or a non-disciplinary administrative suspension for failure to complete continuing legal education or other requirements. Lawyers on probation may be subject to monitoring and specific limitations on their practices. Lawyers on inactive status, despite being characterized in many jurisdictions as being “in good standing,” and lawyers on disability inactive status are not permitted to practice law. Public protection warrants exclusion of these lawyers from the authority to provide legal services as defined in this rule. Lawyers permitted to provide legal services pursuant to this rule must do so without fee or other compensation, or expectation thereof. Their service must be provided through an established not-for-profit organization that is authorized to provide legal services either in its own name or that provides representation of clients through employed or cooperating lawyers. Alternatively, this court may instead designate other specific organization(s) through which these legal services may be rendered. Under rule 31.17(2), an emeritus lawyer from another United States jurisdiction may provide pro bono legal services on a temporary basis in this state provided that the emeritus lawyer is authorized to provide pro bono legal services in that jurisdiction pursuant to that jurisdiction’s emeritus or pro bono practice rule. Lawyers may also be authorized to provide legal services in this state on a temporary basis under Iowa R. of Prof’l Conduct 32:5.5(c).

[4] Lawyers authorized to practice law in another jurisdiction, who principally practice in the area of such other jurisdiction determined by this court to have suffered a major disaster, and whose practices are disrupted by a major disaster there, and who are not disbarred, suspended from practice or otherwise restricted from practicing law in any other manner in any other jurisdiction, are authorized under rule 31.17(3) to provide legal services on a temporary basis in this state. Those legal services must arise out of and be reasonably related to the lawyer’s practice of law in the affected jurisdiction. For purposes of this rule, the determination of a major disaster in another jurisdiction should first be made by the highest court of appellate jurisdiction in that jurisdiction. For the meaning of “arise out of and reasonably related to,” see Iowa R. of Prof’l Conduct 32:5.5, cmt. [14].

[5] Emergency conditions created by major disasters end, and when they do, the authority created by rules 31.17(2) and (3) also ends with appropriate notice to enable lawyers to plan and to complete pending legal matters. Under rule 31.17(4), this court determines when those conditions end only for purposes of this rule. The authority granted under rule 31.17(2) shall end upon such determination except that lawyers assisting residents of this state under rule 31.17(2) may continue to do so for such longer period as is reasonably necessary to complete the representation. The authority created by rule 31.17(3) will end 60 days after this court makes such a determination with regard to an affected jurisdiction.

[6] Rules 31.17(2) and (3) do not authorize lawyers to appear in the courts of this state. Court appearances are subject to the pro hac vice admission rules of this court. This court may, in a determination made under rule 31.17(5)(b), include authorization for lawyers who provide legal services in this state under rule 31.17(2) to appear in all or designated courts of this state without need for such pro hac vice admission. A lawyer who has appeared in the courts of this state pursuant to rule 31.17(5) may continue to appear in any such matter notwithstanding a declaration under rule 31.17(4) that the conditions created by major disaster have ended. Furthermore, withdrawal from a court appearance is subject to Iowa R. of Prof’l Conduct 32:1.16.

[7] Authorization to practice law as a foreign legal consultant or in-house counsel in a United States jurisdiction offers lawyers a limited scope of permitted practice and may therefore restrict that person’s ability to provide legal services under this rule.

[8] The ABA National Lawyer Regulatory Data Bank is available to help determine whether any lawyer seeking to practice in this state pursuant to rule 31.17(2) or (3) is disbarred, suspended from practice or otherwise subject to a public disciplinary sanction that would restrict the lawyer’s ability to practice law in any other jurisdiction.

[Court Order May 14, 2007; February 14, 2008, effective April 1, 2008]

### **Rule 31.18 Licensing and practice of foreign legal consultants.**

**31.18(1) General regulation as to licensing.** In its discretion, the supreme court may license to practice in the State of Iowa as a foreign legal consultant, without examination, an applicant who:

*a.* Is, and for at least five years has been, a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;

*b.* For at least five years preceding his or her application has been a member in good standing of such legal profession and has been lawfully engaged in the practice of law in the foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the foreign country;

*c.* Possesses the good moral character and general fitness requisite for a member of the bar of this state; and

*d.* Intends to practice as a foreign legal consultant in this state and to maintain an office in this state for that purpose.

**31.18(2) Application.** An application under this rule shall file with the Office of Professional Regulation an application for a foreign legal consultant license, on a form approved by the supreme court, which shall include all of the following:

*a.* A certificate from the professional body or public authority having final jurisdiction over professional discipline in the foreign country in which the applicant is admitted, certifying the applicant’s admission to practice, date of admission, and good standing as a lawyer or counselor at law or the equivalent, and certifying that the applicant has not been disciplined and no charges of professional misconduct are pending, or identifying any disciplinary sanctions that have been imposed upon the applicant or any pending charges, complaints, or grievances;

b. A letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction in the foreign country in which the applicant is admitted;

c. Duly authenticated English translations of the certificate required by rule 31.18(2)(a) and the letter required by rule 31.18(2)(b) if they are not in English;

d. The requisite documentation establishing the applicant's compliance with the immigration laws of the United States;

e. Other evidence as the supreme court may require regarding the applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of rule 31.18(1); and

f. An application fee of \$1000.

**31.18(3) *Scope of practice.*** A person licensed to practice as a foreign legal consultant under this rule may render legal services in this state, but shall not be considered admitted to practice law here, or in any way hold himself or herself out as a member of the bar of this state, or do any of the following:

a. Appear as a lawyer on behalf of another person in any court, or before any magistrate or other judicial officer, in this state (except when admitted pro hac vice pursuant to Iowa Ct. R. 31.14);

b. Prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;

c. Prepare:

(1) Any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or

(2) Any instrument relating to the administration of a decedent's estate in the United States of America;

d. Prepare any instrument in respect of the marital or parental relations, rights, or duties of a resident of the United States of America, or the custody or care of the children of such a resident;

e. Render professional legal advice on the law of this state or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise);

f. Carry on a practice under, or utilize in connection with such practice, any name, title, or designation other than one or more of the following:

(1) The foreign legal consultant's own name;

(2) The name of the law firm with which the foreign legal consultant is affiliated;

(3) The foreign legal consultant's authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of that country; and

(4) The title "foreign legal consultant," which may be used in conjunction with the words "admitted to the practice of law in [name of the foreign country of his or her admission to practice]."

**31.18(4) *Rights and obligations.*** Subject to the limitations listed in rule 31.18(3), a person licensed under this rule shall be considered a foreign legal consultant affiliated with the bar of this state and shall be entitled and subject to:

a. The rights and obligations set forth in the Iowa Rules of Professional Conduct or arising from the other conditions and requirements that apply to a member of the bar of this state under the Iowa Court Rules; and

b. The rights and obligations of a member of the bar of this state with respect to:

(1) Affiliation in the same law firm with one or more members of the bar of this state, including by:

1. Employing one or more members of the bar of this state;

2. Being employed by one or more members of the bar of this state or by any partnership [or professional corporation] that includes members of the bar of this state or that maintains an office in this state; and

3. Being a partner in any partnership [or shareholder in any professional corporation] that includes members of the bar of this state or that maintains an office in this state; and

(2) Attorney-client privilege, work-product privilege, and similar professional privileges.

**31.18(5) *Discipline.*** A person licensed to practice as a foreign legal consultant under this rule shall be subject to professional discipline in the same manner and to the same extent as members of the bar of this state. To this end:

a. Every person licensed to practice as a foreign legal consultant under this rule:

(1) Shall be subject to the jurisdiction of the supreme court and the Iowa Supreme Court Attorney Disciplinary Board and to reprimand, suspension, removal, or revocation of his or her license to

practice by the supreme court and shall otherwise be governed by the Iowa Rules of Professional Conduct and the Iowa Court Rules; and

(2) Shall execute and file with the clerk of the supreme court, in the form and manner as the court may prescribe:

1. A commitment to observe the Iowa Rules of Professional Conduct and the Iowa Court Rules to the extent applicable to the legal services authorized under rule 31.18(3);

2. A written undertaking to notify the court of any change in the foreign legal consultant's good standing as a member of the foreign legal profession referred to in rule 31.18(1)(a) and of any final action of the professional body or public authority referred to in rule 31.18(2)(a) imposing any disciplinary reprimand, suspension, or other sanction upon the foreign legal consultant; and

3. A duly acknowledged instrument in writing, providing the foreign legal consultant's address in this state and designating the clerk of the supreme court as his or her agent for service of process. The foreign legal consultant shall keep the Office of Professional Regulation advised in writing of any changes of address in this jurisdiction. In any action or proceeding brought against the foreign legal consultant and arising out of or based upon any legal services rendered or offered to be rendered by the foreign legal consultant within this state or to residents of this state, service shall first be attempted upon the foreign legal consultant at the most recent address filed with the clerk. Whenever after due diligence service cannot be made upon the foreign legal consultant at that address, service may be made upon the clerk. Service made upon the clerk in accordance with this provision is effective as if service had been made personally upon the foreign legal consultant.

b. Service of process on the clerk under rule 31.18(5)(a)(2)“3” shall be made by personally delivering to the clerk's office, and leaving with the clerk, or with a deputy or assistant authorized by the clerk to receive service, duplicate copies of the process. The clerk shall promptly send one copy of the process to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to the foreign legal consultant at the most recent address provided in accordance with rule 31.18(5)(a)(2)“3.”

**31.18(6) *Required fees and annual statements.*** A person licensed as a foreign legal consultant shall pay a \$200 registration fee to the Client Security Commission. The person licensed under this rule shall file an annual statement and pay the annual disciplinary fee as required by Iowa Ct. Rs. 39.5 and 39.8.

**31.18(7) *Revocation of license.*** If the supreme court determines that a person licensed as a foreign legal consultant under this rule no longer meets the requirements for licensure set forth in rule 31.18(1)(a) or (b), it shall revoke the foreign legal consultant's license.

**31.18(8) *Admission to bar.*** If a person licensed as a foreign legal consultant under this rule is subsequently admitted as a member of the bar of this state under the rules governing admission, that person's foreign legal consultant license shall be deemed superseded by the license to practice law as a member of the bar of this state.

[Court Order June 3, 2009]

**Rules 31.19 to 31.24** Reserved.



**Rule 31.25 Forms.****Rule 31.25 — Form 1: *Application for Admission Pro Hac Vice — District Court.***

IN THE IOWA DISTRICT COURT OF \_\_\_\_\_ COUNTY

\_\_\_\_\_  
Plaintiff(s),

vs.

\_\_\_\_\_  
Defendant(s).

Case No. \_\_\_\_\_

**APPLICATION FOR ADMISSION PRO  
HAC VICE  
(Iowa Court Rule 31.14)**

The undersigned seeks permission to appear pro hac vice in the above-captioned proceeding.

Applicant shall complete all of the following:

If this matter involves review of an agency action did the applicant seek admission pro hac vice in the proceedings below?

Yes ☐ No ☐

If yes, attach copies of all related documents.

a. Applicant's full name, residential address, and business address.

\_\_\_\_\_  
\_\_\_\_\_

b. The name, address, and phone number of each client sought to be represented.

\_\_\_\_\_  
\_\_\_\_\_

c. The courts before which the applicant has been admitted to practice and the respective periods of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.

\_\_\_\_\_  
\_\_\_\_\_

d. Has the applicant ever been denied admission pro hac vice in this state?

Yes ☐ No ☐

If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

e. Has the applicant ever had admission pro hac vice revoked in this state?

Yes ☐ No ☐

If yes, on a separate page specify the caption of the proceedings, the date of the revocation, and what findings were made. Attach copies of all related documents.

f. Has the applicant ever been denied admission in any jurisdiction for reasons other than failure of a bar examination?

Yes ☐ No ☐

If yes, on a separate page specify the jurisdiction, caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

g. Has the applicant ever been formally disciplined or sanctioned by any court in this state?

Yes ☐ No ☐

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

*h.* Has the applicant ever been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the applicant engaged in the unauthorized practice of law in this state or elsewhere?

Yes ☐ No ☐

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

*i.* Has any formal, written disciplinary proceeding ever been brought against the applicant by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years?

Yes ☐ No ☐

If yes, on a separate page specify as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings. Attach copies of all related documents.

*j.* Has the applicant ever been placed on probation by a disciplinary authority in any other jurisdiction?

Yes ☐ No ☐

If yes, on a separate page specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made. Attach copies of all related documents.

*k.* Has the applicant ever been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders?

Yes ☐ No ☐

If yes, on a separate page specify the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. Attach to this application a copy of the written order or a transcript of the oral rulings and other related documents.

*l.* Has the applicant filed an application to appear pro hac vice in this state within the preceding two years?

Yes ☐ No ☐

If yes, on a separate page list the name and address of each court or agency and a full identification of each proceeding in which an application was filed, including the date and outcome of the application. Attach copies of all related documents.

*m.* I acknowledge my familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court before which I seek to practice.

Yes ☐ No ☐

*n.* List the name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the applicant's pro hac vice request.

\_\_\_\_\_  
\_\_\_\_\_

*o.* I acknowledge that service upon the in-state lawyer in all matters connected with the proceedings will have the same effect as if personally made upon me.

Yes ☐ No ☐

*p.* If the applicant has appeared pro hac vice in this state in five proceedings within the preceding two years, the applicant shall, on a separate page, provide a statement showing good cause why the applicant should be admitted in the present proceeding.

*q.* On a separate page the applicant shall provide any other information the applicant deems necessary to support the application for admission pro hac vice.

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of applicant

#### CERTIFICATE OF SERVICE

The undersigned certifies a copy of this application was served on the following parties (list names and addresses below) on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ by \_\_\_\_\_ personal delivery  
\_\_\_\_\_ deposit in the U.S. mail.

\_\_\_\_\_  
Signature of person making service

[Court Order March 15, 2007; June 3, 2009]

**Rule 31.25 — Form 2: *Application for Admission Pro Hac Vice — Supreme Court.***

## IN THE IOWA SUPREME COURT

_____, Plaintiff(s), vs. _____, Defendant(s).	Case No. _____  <b>APPLICATION FOR ADMISSION PRO          HAC VICE</b>  <b>(Iowa Court Rule 31.14)</b>
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The undersigned seeks permission to appear pro hac vice in the above-captioned proceeding.

Applicant shall complete all of the following:

Did the applicant seek admission pro hac vice in the proceedings below?

Yes ☐ No ☐

If yes, attach copies of all related documents.

a. Applicant's full name, residential address, and business address.

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b. The name, address, and phone number of each client sought to be represented.

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c. The courts before which the applicant has been admitted to practice and the respective periods of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.

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d. Has the applicant ever been denied admission pro hac vice in this state?

Yes ☐ No ☐

If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

e. Has the applicant ever had admission pro hac vice revoked in this state?

Yes ☐ No ☐

If yes, on a separate page specify the caption of the proceedings, the date of the revocation, and what findings were made. Attach copies of all related documents.

f. Has the applicant ever been denied admission in any jurisdiction for reasons other than failure of a bar examination?

Yes ☐ No ☐

If yes, on a separate page specify the jurisdiction, caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.

g. Has the applicant ever been formally disciplined or sanctioned by any court in this state?

Yes ☐ No ☐

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

*h.* Has the applicant ever been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the applicant engaged in the unauthorized practice of law in this state or elsewhere?

Yes ☐ No ☐

If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.

*i.* Has any formal, written disciplinary proceeding ever been brought against the applicant by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years?

Yes ☐ No ☐

If yes, on a separate page specify as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings. Attach copies of all related documents.

*j.* Has the applicant ever been placed on probation by a disciplinary authority in any other jurisdiction?

Yes ☐ No ☐

If yes, on a separate page specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made. Attach copies of all related documents.

*k.* Has the applicant ever been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders?

Yes ☐ No ☐

If yes, on a separate page specify the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. Attach to this application a copy of the written order or a transcript of the oral rulings and other related documents.

*l.* Has the applicant filed an application to appear pro hac vice in this state within the preceding two years?

Yes ☐ No ☐

If yes, on a separate page list the name and address of each court or agency and a full identification of each proceeding in which an application was filed, including the date and outcome of the application. Attach copies of all related documents.

*m.* I acknowledge my familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court before which I seek to practice.

Yes ☐ No ☐

*n.* List the name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the applicant's pro hac vice request.

\_\_\_\_\_  
\_\_\_\_\_

*o.* I acknowledge that service upon the in-state lawyer in all matters connected with the proceedings will have the same effect as if personally made upon me.

Yes ☐ No ☐

*p.* If the applicant has appeared pro hac vice in this state in five proceedings within the preceding two years, the applicant shall, on a separate page, provide a statement showing good cause why the applicant should be admitted in the present proceeding.

*q.* On a separate page the applicant shall provide any other information the applicant deems necessary to support the application for admission pro hac vice.

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of applicant

### CERTIFICATE OF SERVICE

The undersigned certifies a copy of this application was served on the following parties (list names and addresses below) on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by \_\_\_\_\_ personal delivery  
\_\_\_\_\_ deposit in the U.S. mail.

\_\_\_\_\_  
Signature of person making service

[Court Order March 15, 2007; June 3, 2009]

**Rule 31.25 — Form 3: *Registration statement for lawyer engaging in temporary practice following determination of major disaster.***

## IN THE IOWA SUPREME COURT

**REGISTRATION STATEMENT FOR LAWYER  
ENGAGING IN TEMPORARY PRACTICE  
FOLLOWING DETERMINATION OF MAJOR  
DISASTER****IOWA COURT RULE 31.17**

Pursuant to Iowa Court Rule 31.17(6) the undersigned shall complete the following:

**1. Name**Lawyer's full name.  
  
\_\_\_\_\_Name of lawyer's firm.  
  
\_\_\_\_\_**2. Home State Information**Residential address in lawyer's home state.  
  
\_\_\_\_\_  
\_\_\_\_\_Business address in lawyer's home state.  
  
\_\_\_\_\_  
\_\_\_\_\_Telephone number(s) in lawyer's home state.  
  
\_\_\_\_\_  
\_\_\_\_\_E-mail address.  
  
\_\_\_\_\_  
\_\_\_\_\_**3. Iowa Information**Residential address in Iowa.  
  
\_\_\_\_\_  
\_\_\_\_\_Business address in Iowa.  
  
\_\_\_\_\_  
\_\_\_\_\_

Telephone number(s) in Iowa.

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E-mail address.

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#### 4. Bar Admission

List the courts before which you have been admitted to practice, the respective periods of admission, and your registration or bar numbers.

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Is your license to practice currently subject to disbarment, suspension, or restrictions in any jurisdiction?

Yes ☐ No ☐

If yes, on a separate page specify the proceedings and attach copies of all related documents.

#### 5. Temporary Practice Following Determination of Major Disaster

*(Check all that apply)*

Specify whether you will engage in temporary practice pursuant to:

- ☐ Iowa Court Rule 31.17(2) (pro bono legal services).  
☐ Iowa Court Rule 31.17(3) (legal services reasonably related to lawyer's practice of law in the other jurisdiction, or area of such other jurisdiction, where the disaster occurred).

I agree that I am subject to the disciplinary procedures and authority of this court and the Iowa Rules of Professional Conduct, the Standards for Professional Conduct, and any applicable local rules and procedures.

Yes ☐ No ☐

#### ATTORNEY CERTIFICATION

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that I am licensed and in good standing and authorized to practice law in each jurisdiction listed above and my license is not subject to suspension or restriction in any jurisdiction.

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Date

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Signature of Lawyer

[Court Order May 14, 2007]

## **CHAPTER 35**

### **ATTORNEY DISCIPLINE, DISABILITY, AND REINSTATEMENT**

Rule 35.1	Grievance Commission of the Supreme Court of Iowa
Rule 35.2	Iowa Supreme Court Attorney Disciplinary Board
Rule 35.3	Reprimand
Rule 35.4	Interim suspension for threat of harm
Rule 35.5	Complaints
Rule 35.6	Discovery
Rule 35.7	Hearing
Rule 35.8	Subpoenas
Rule 35.9	Decision
Rule 35.10	Disposition by the supreme court
Rule 35.11	Appeal
Rule 35.12	Suspension
Rule 35.13	Procedure on application for reinstatement
Rule 35.14	Conviction of a crime
Rule 35.15	Disbarment on consent
Rule 35.16	Disability suspension
Rule 35.17	Death or suspension of practicing attorney
Rule 35.18	Reciprocal discipline
Rule 35.19	Suspension of attorney's license for failure to comply with a support order
Rule 35.20	Suspension of attorney's license for failure to comply with an obligation owed to or collected by the College Student Aid Commission
Rule 35.21	Suspension of attorney's license for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue
Rule 35.22	Notification of clients and counsel
Rule 35.23	Immunity
Rule 35.24	Reports
Rule 35.25	Effective dates
Rule 35.26	Costs
Rule 35.27	Rules





## **CHAPTER 35**

### **ATTORNEY DISCIPLINE, DISABILITY, AND REINSTATEMENT**

#### **Rule 35.1 Grievance Commission of the Supreme Court of Iowa.**

**35.1(1)** There is hereby created the Grievance Commission of the Supreme Court of Iowa consisting of 15 lawyers from judicial election district 5C, 10 lawyers from judicial election district 5A, and 5 lawyers from each other judicial election district, to be appointed by the supreme court. The court shall designate one of them, annually, as chair of the commission. The supreme court shall accept nominations for appointment to the commission from any association of lawyers which maintains an office within the state of Iowa or any attorney licensed in Iowa. The grievance commission shall also consist of no fewer than 5 nor more than 28 laypersons appointed by the court. Members shall serve no more than two three-year terms, and no member who has served two full terms shall be eligible for reappointment. A member serving as a primary or alternate member of a division of the commission at the time the member's regular term ends shall, nonetheless, continue to serve on that division until the division has concluded its duties with respect to the complaint for which the division was appointed.

**35.1(2)** The grievance commission shall have an administrative committee consisting of the chair, the director of the office of professional regulation, and a nonlawyer commission member appointed by the court. The administrative committee shall, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget covering the commission's operations for the upcoming fiscal year. The grievance commission, or a duly appointed division thereof, shall hold hearings and receive evidence concerning alleged violations, wherever such violations occur, of the Iowa Rules of Professional Conduct, the laws of the United States, and the laws of the state of Iowa or any other state or territory within their respective jurisdictions by lawyers who are members of the bar of the supreme court. The grievance commission, or a duly appointed division thereof, also shall hold hearings and receive evidence concerning alleged violations, wherever such violations occur, of the Iowa Rules of Professional Conduct by lawyers practicing law in Iowa who are not members of the bar of the supreme court. The grievance commission shall have such other powers and duties as are provided in these rules.

**35.1(3)** A member appointed to the grievance commission shall not represent, in any stage of the investigative or disciplinary proceedings, any lawyer against whom an ethical complaint has been filed. A member of the grievance commission may represent a lawyer in a malpractice, criminal, or other matter; however, the member must decline representation of the lawyer in any stage of the investigative or disciplinary proceedings and must not participate in any hearing or other proceeding before the commission. These prohibitions extend to lawyers associated in a firm with a member of the commission with respect to those cases in which the member participates or has participated as a member of a division or as an alternate.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 30, 1981; June 24, 1983; December 15, 1994, effective January 3, 1995; July 26, 1995; April 1, 1999; November 9, 2001, effective February 15, 2002; June 28, 2004, effective May 1, 2004; April 20, 2005, effective July 1, 2005; August 6, 2007; December 5, 2007; August 10, 2009]

#### **Rule 35.2 Iowa Supreme Court Attorney Disciplinary Board.**

**35.2(1)** There is hereby created the Iowa Supreme Court Attorney Disciplinary Board. The board shall consist of nine lawyers and three laypersons appointed by the supreme court. The supreme court shall designate one of the lawyers, annually, as chair. The supreme court shall accept nominations for appointment to the board from any association of lawyers which maintains an office within the state of Iowa or any attorney licensed in Iowa. Members shall serve no more than two three-year terms, and no member who has served two full terms shall be eligible for reappointment. The board members are appointed commissioners of the supreme court to initiate or receive, and process complaints against any attorney licensed to practice law in this state for alleged violations of the Iowa Rules of Professional Conduct and laws of the United States or the state of Iowa. Similarly, the members may initiate or receive, and process complaints against any attorney who is not licensed to practice law in this state, but who engages in the practice of law in Iowa, for alleged violations of the Iowa Rules of Professional Conduct. Upon completion of any such investigation, the board shall either dismiss the complaint, admonish or reprimand the attorney, or file and prosecute the complaint before the grievance commission or any division thereof. Complaints involving attorneys who are not authorized

to practice law in Iowa may additionally be referred to the commission on the unauthorized practice of law.

**35.2(2)** A member appointed to the board shall not represent, in any stage of the investigative or disciplinary proceedings, any lawyer against whom an ethical complaint has been filed. To avoid even the appearance of impropriety, a member of the board should not represent any lawyer in any malpractice, criminal, or other matter when it appears that the filing of an ethical complaint against that lawyer is reasonably likely. These prohibitions extend to lawyers associated in a firm with a member of the board.

**35.2(3)** The assistant director for attorney discipline of the office of professional regulation shall serve as the principal executive officer of the board. Wherever in this chapter a reference to the “assistant director” appears, it shall refer to the assistant director for attorney discipline of the office of professional regulation. The assistant director shall be responsible to the board, to the director of the office of professional regulation, and to the supreme court for proper administration of these rules. Subject to the approval of the supreme court, the board shall employ such other persons as it deems necessary for the proper administration of this chapter. The assistant director and other employees of the board shall receive such compensation and expenses as the supreme court shall fix upon recommendation of the director of the office of professional regulation.

**35.2(4)** The board shall have an executive committee consisting of the chair, the assistant director, and one nonlawyer member of the board appointed by the court. The executive committee of the board shall, at least 60 days prior to the start of each fiscal year, submit to the court for its consideration and approval a budget covering the operations of the board for the upcoming fiscal year. This budget shall include proposed expenditures for staff, support staff, office space, equipment, supplies and other items necessary to administer the responsibilities of the board as set out in these rules. Approval of the budget by the court shall authorize payment as provided in the budget. A separate bank account designated as the ethics operating account of the disciplinary fund shall be maintained for payment of authorized expenditures as provided in the approved budget. Moneys derived from the annual disciplinary fee set out in Iowa Ct. R. 39.5 shall be deposited in the ethics operating account to the extent authorized each year by the supreme court, for payment of the board’s authorized expenditures. [Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 30, 1981; October 20, 1982; February 9, 1983; January 22, 1986, effective February 3, 1986; December 15, 1994, effective January 3, 1995; April 1, 1999; November 9, 2001, effective February 15, 2002; June 28, 2004, effective May 1, 2004; April 20, 2005, and June 30, 2005, effective July 1, 2005; December 5, 2007]

**Rule 35.3 Reprimand.** In the event an attorney is reprimanded by the board, a copy of the reprimand shall be filed with the clerk of the grievance commission who shall cause a copy of the reprimand to be served on the attorney by personal service in the manner of an original notice in civil suits or by restricted certified mail, with a notice attached stating that the attorney has 30 days from the date of completed service to file exceptions to the reprimand with the clerk of the grievance commission. Service shall be deemed complete on the date of personal service or the date shown by the postal receipt of delivery of the notice to the attorney. If the attorney fails to file an exception, such failure shall constitute a waiver of any further proceedings and a consent that the reprimand be final and public. In that event, the clerk of the grievance commission shall cause a copy of the reprimand to be forwarded to the clerk of the supreme court, together with proof of service of the reprimand upon the attorney and a statement that no exceptions were filed within the time prescribed. The supreme court shall then include the reprimand in the records of the court as a public document unless the court remands the matter to the board for consideration of another disposition. In the event, however, the attorney concerned files a timely exception to the reprimand, no report of the reprimand shall be made to the clerk of the supreme court and the reprimand shall be stricken from the records. The board may proceed further by filing a complaint against such attorney before the grievance commission. When an exception to a reprimand has been filed, such reprimand shall not be admissible in evidence in any hearing before the grievance commission.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; June 15, 1983; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.4 Interim suspension for threat of harm.**

**35.4(1)** Upon receipt of evidence demonstrating probable cause that a lawyer subject to the disciplinary jurisdiction of the supreme court has committed a violation of the Iowa Rules of Professional Conduct that poses a substantial threat of serious harm to the public, the board shall do all of the following:

*a.* Transmit the evidence along with a verified petition for interim suspension pending formal disciplinary proceedings to the court. The petition shall state with particularity the disciplinary rules alleged to have been violated by the lawyer and the exact nature of the threat of serious harm to the public.

*b.* Promptly notify the lawyer by any reasonable means that a petition has been filed, followed by service of the petition.

**35.4(2)** Upon receipt of the petition and evidence, the court shall determine whether the board has established, by a convincing preponderance of the evidence, that a disciplinary violation posing a substantial threat of serious harm to the public exists. If such a disciplinary violation is established, the court may enter an order immediately suspending the lawyer pending final disposition of a disciplinary proceeding predicated upon such conduct or may order such other action as it deems appropriate. The order may provide that any further proceedings based on the lawyer's conduct be expedited. If a suspension order is entered, the court may direct the chief judge of the judicial district in which the lawyer practiced to appoint a trustee under rule 35.17.

**35.4(3)** A lawyer suspended pursuant to this rule may file a petition to dissolve or modify the interim suspension order. The lawyer must serve the petition on the board's counsel and the chief judge of the judicial district in which the lawyer practiced. The court shall promptly schedule the matter for hearing before one or more justices. The hearing shall be set for a date no sooner than seven days after the petition is filed unless both parties and the court agree to an earlier date. At the hearing, the lawyer shall bear the burden of demonstrating that the suspension order should be dissolved or modified.

[Court Order April 9, 2003; April 20, 2005, effective July 1, 2005]

**Rule 35.5 Complaints.** Every complaint filed against an attorney with the grievance commission shall be signed and sworn to by the chair of the board and served upon the attorney concerned as provided by the rules of the grievance commission. Such complaints shall be sufficiently clear and specific in their charges to reasonably inform the attorney against whom the complaint is made of the misconduct alleged to have been committed. All complaints, motions, pleadings, records, reports, exhibits, evidence and other documents or things filed under this chapter or received in evidence in a hearing before the grievance commission shall be filed with and preserved by the clerk of the grievance commission in Des Moines, Iowa, and shall at all times be available to the supreme court or anyone designated by the court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.6 Discovery.** In any disciplinary proceeding or action taken by the board, discovery shall be permitted as provided in Iowa Rs. Civ. P. 1.501 to 1.517, 1.701, 1.702, and 1.714 to 1.717. The attorney against whom a complaint has been filed, in addition to the restriction stated in Iowa R. Civ. P. 1.503(1), shall not be required to answer an interrogatory pursuant to Iowa R. Civ. P. 1.509, a request for admission pursuant to Iowa R. Civ. P. 1.510, a question upon oral examination pursuant to Iowa R. Civ. P. 1.701, or a question upon written interrogatories pursuant to Iowa R. Civ. P. 1.710, if the answer would be self-incriminatory. In addition thereto, evidence and testimony may be perpetuated as provided in Iowa Rs. Civ. P. 1.721 to 1.728. If either party is to utilize discovery, it must be commenced within 30 days after service of the complaint. The commission may permit amendments to the complaint to conform to the proof or to raise new matters as long as the respondent has notice thereof and a reasonable time to prepare a defense thereto prior to the date set for hearing. The grievance commission, or any division thereof, shall receive an application and may enter an order to enforce discovery or to perpetuate any evidence. Discovery pursuant to this rule includes an attorney's right to obtain a copy of the board's file pursuant to the provisions of Iowa Ct. R. 34.4(2). [Court Order June 10, 1964; October 8, 1970; November 8, 1974; March 15, 1983; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.7 Hearing.**

**35.7(1)** Upon the expiration of 30 days from the date of service of the complaint, the grievance commission shall immediately set the matter for hearing and notify the parties by restricted certified mail or personal service. Such notice shall be provided at least ten days prior to the scheduled hearing date.

After the complaint is served and a division of the grievance commission is appointed to hear the matter, the clerk of the grievance commission shall arrange a telephone conference with members of the division and the parties to schedule the hearing. Notice of the hearing shall be provided at least ten days prior to the scheduled hearing. If a party does not participate in the scheduling conference, notice of the hearing shall be by restricted certified mail or personal service.

The hearing shall be held not less than 60 days nor more than 90 days after the service of the complaint. The commission may grant reasonable continuances upon written application supported by affidavit. Proceedings, hearings, and papers filed before the grievance commission or any division thereof shall be confidential, subject to disclosure under Iowa Ct. R. 36.18.

**35.7(2)** In the event an attorney previously has been publicly reprimanded or an attorney's license has been suspended or revoked or the attorney has been disbarred, a certified copy of said action shall be admitted into evidence at any hearing involving disciplinary proceedings without the necessity of a bifurcated hearing. The grievance commission and the supreme court shall consider this evidence along with all other evidence in the case in determining the attorney's fitness to practice law in the state of Iowa.

**35.7(3)** Principles of issue preclusion may be used by either party in a lawyer disciplinary case if all of the following conditions exist:

*a.* The issue has been resolved in a civil proceeding that resulted in a final judgment, or in a criminal proceeding that resulted in a finding of guilt, even if the Iowa Supreme Court Attorney Disciplinary Board was not a party to the prior proceeding.

*b.* The burden of proof in the prior proceeding was greater than a mere preponderance of the evidence.

*c.* The party seeking preclusive effect has given written notice to the opposing party, not less than ten days prior to the hearing, of the party's intention to invoke issue preclusion.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 30, 1981; August 27, 1982; September 27, 1984, effective October 10, 1984; October 25, 1993, effective January 3, 1994; December 15, 1994, effective January 3, 1995; May 23, 2001; November 9, 2001, effective February 15, 2002; December 17, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.8 Subpoenas.** The clerk of the district court of the county in which any disciplinary hearing is to be held shall issue subpoenas of all kinds upon request of the grievance commission, the complainant, or the attorney against whom a complaint has been filed. Any member of the grievance commission is hereby empowered to administer oaths or affirmations to all witnesses and shall cause such testimony to be officially reported by a court reporter. The grievance commission shall report to the supreme court the failure or refusal of any person to attend or testify in response to any subpoena or any ruling of said commission.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.9 Decision.** At the conclusion of a hearing upon any complaint against an attorney, the grievance commission may permit a reasonable time for the parties to file post-hearing briefs and arguments. The commission shall dismiss the complaint, issue a private admonition, or recommend to the supreme court that the attorney be reprimanded or the attorney's license to practice law be suspended or revoked. If the grievance commission recommends a reprimand or suspension or revocation of the attorney's license, it shall file with the supreme court its written findings of fact, conclusions of law, and recommendations. As part of its report, the commission may recommend additional or alternative sanctions such as restitution, costs, practice limitations, appointment of a trustee or receiver, passage of a bar examination or the Multistate Professional Responsibility Examination, attendance at continuing legal education courses, or other measures consistent with the purposes of attorney discipline.

A copy of the commission's report shall be filed with the Client Security Commission. The disposition or report of the grievance commission shall be made or filed with the supreme court within 30 days of the date set for the filing of the last responsive brief and argument. If the commission

cannot reasonably make its determination or file its report within such time limit, it shall report that fact and the reasons therefor to the parties and the clerk of the supreme court. Any determination or report of the commission need only be concurred in by a majority of the commissioners sitting. Any commissioner has the right to file with the supreme court a dissent from the majority determination or report. Such matter shall then stand for final disposition in the supreme court. If the grievance commission dismisses the complaint or issues a private admonition, no report shall be made to the supreme court, except as provided in rule 35.24; however, the grievance commission shall, within ten days of its determination, serve a copy of its determination or report on the complainant and the attorney concerned as provided in chapter 36 of the Iowa Court Rules. If no appeal is applied for by the complainant within ten days after such service, the grievance commission's determination shall be final. Any report of reprimand or recommendations for license suspension or revocation shall be a public document upon its filing with the clerk of the supreme court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 17, 1984; September 26, 1984, effective October 10, 1984; October 25, 1985, effective November 1, 1985; March 9, 1994, effective April 1, 1994; November 9, 2001, effective February 15, 2002; August 28, 2003; April 20, 2005, and July 1, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008]

#### **Rule 35.10 Disposition by the supreme court.**

**35.10(1)** Any report filed by the grievance commission with the supreme court shall be served upon the complainant and the attorney concerned as provided by chapter 36 of the Iowa Court Rules. Such report shall be entitled in the name of the complainant versus the accused attorney as the respondent. Within 14 days after a report is filed with the clerk of the supreme court, the clerk of the grievance commission shall transmit to the clerk of the supreme court the entire record made before the commission. If no appeal is taken or application for permission to appeal is filed within the ten day period provided in rule 35.11, the supreme court shall proceed to review de novo the record made before the commission and determine the matter without oral argument or further notice to the parties. Upon such review de novo the supreme court may impose a lesser or greater sanction than the discipline recommended by the grievance commission.

**35.10(2)** The supreme court may revoke or suspend the license of an attorney admitted to practice in Iowa upon any of the following grounds: conviction of a felony, conviction of a misdemeanor involving moral turpitude, violation of any provision of the Iowa Rules of Professional Conduct, or any cause now or hereafter provided by statute or these rules.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; January 15, 1975; July 18, 1983; July 1, 1985; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008]

#### **Rule 35.11 Appeal.**

**35.11(1)** The respondent may appeal from the report or recommendation filed by the grievance commission pursuant to rule 35.9 to the supreme court. The respondent's notice of appeal must be filed with the clerk of the grievance commission within ten days after service of the report or recommendation on the respondent. The respondent shall serve a copy of the notice of appeal on the complainant or its counsel pursuant to Iowa R. App. P. 6.701. Promptly after filing the notice of appeal with the clerk of the grievance commission, the respondent shall mail or deliver a copy of the notice to the clerk of the supreme court.

**35.11(2)** The complainant may apply to the supreme court for permission to appeal from a determination, ruling, report, or recommendation of the grievance commission. The application shall be filed within ten days after service of the determination, ruling, report, or recommendation on the complainant. The supreme court may grant such appeal in a manner similar to the granting of interlocutory appeals in civil cases under the Iowa Rules of Appellate Procedure. The filing fee and the docket fee shall be waived upon the complainant's written request.

**35.11(3)** An appeal of the grievance commission's dismissal of a complaint or of the grievance commission's decision to issue a private admonition shall remain confidential. In making such application, and in any subsequent briefs, the complainant shall refer to the respondent as "Attorney Doe No. (insert grievance commission number)," instead of using the respondent's name. All references to the respondent during oral arguments shall be to "Attorney Doe." In the event the supreme court reverses or modifies the report of the grievance commission, such court order of reversal or modification shall become a public record.

**35.11(4)** After a notice of appeal is filed or permission to appeal is granted, the appeal shall proceed pursuant to the Iowa Rules of Appellate Procedure to the full extent those rules are not inconsistent with this rule. Appellant shall cause the appeal to be docketed within ten days after the filing of the notice of appeal or the order granting permission to appeal. The matter shall be docketed under the title given to the action before the grievance commission with the appellant identified as such pursuant to Iowa R. App. P. 6.12(1) unless otherwise required by rule 35.11(3). The abbreviated time limits specified in Iowa R. App. P. 6.17 shall apply. Extensions of time shall not be granted except upon a verified showing of the most unusual and compelling circumstances. Review shall be de novo. If a respondent's appeal is dismissed for lack of prosecution pursuant to Iowa R. App. P. 6.19 or for any other reason, the supreme court shall proceed to review and decide the matter pursuant to rule 35.10 as if no appeal had been taken.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 18, 1983; August 14 and 24, 1987, effective September 1, 1987; March 9, 1994, effective April 1, 1994; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; February 27, 2008; June 5, 2008, effective July 1, 2008]

### **Rule 35.12 Suspension.**

**35.12(1)** In the event the supreme court suspends an attorney's license to practice law, such suspension shall continue for the minimum time specified in such order and until the supreme court has approved the attorney's written application for reinstatement. In the order of suspension or by order at any time before reinstatement, the supreme court may require the suspended attorney to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

**35.12(2)** An attorney whose license has been suspended for a period not exceeding 60 days shall not be required to file an application for reinstatement, and the court shall order reinstatement of the attorney's license on the day after the suspension period has expired, subject to the following exceptions. The Iowa Supreme Court Attorney Disciplinary Board may file and serve within the suspension period an objection to the automatic reinstatement of the attorney. The filing of an objection shall stay the automatic reinstatement until ordered otherwise by the court. If the board files an objection, the court shall set the matter for hearing and the clerk shall enter written notice in conformance with rule 35.13, except that the court may waive the requirement of a 60-day waiting period prior to the hearing date. Automatic reinstatement shall not be ordered until all costs assessed under rule 35.26 have been paid.

**35.12(3)** Any attorney suspended shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**35.12(4)** Nothing in this rule shall preclude an attorney, law firm, or professional association from employing a suspended attorney to perform such services only as may be ethically performed by laypersons employed in attorneys' offices, under all of the following conditions:

*a.* Notice of employment, together with a full job description, shall be provided to the board before employment commences.

*b.* Informational reports, verified by the employer and employee, shall be submitted quarterly to the board. Such reports shall contain a certification that no aspect of the employee's work has involved the unauthorized practice of law.

*c.* A suspended attorney shall not have direct or personal association with any client and shall not disburse or otherwise handle funds or property of a client.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; November 21, 1977; April 25, 1985; October 25, 1985, effective November 1, 1985; December 15, 1994, effective January 3, 1995; April 2, 2001; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.13 Procedure on application for reinstatement.** Any person whose certificate to practice law in this state was suspended may apply for reinstatement subject to the following rules:

**35.13(1) Application.**

a. A proceeding for reinstatement to the practice of law in Iowa must be commenced by a written application to the supreme court filed with the clerk of the supreme court not more than 60 days prior to expiration of the suspension period.

b. The application shall state the date of the applicant's original admission, the date and duration of suspension, and that the applicant has complied in all respects with the orders and judgment of the supreme court relating to the suspension.

c. The application shall be verified by the oath of the applicant as to the truth of the statements made in the application.

d. The applicant shall also submit to the supreme court satisfactory proof that the applicant, at the time of the application, is of good moral character and in all respects worthy of the right to practice law. The application shall be accompanied by the recommendation of at least three reputable attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the suspension, the applicant shall also file a recommendation from three reputable attorneys currently practicing law in the district where the applicant resided at the time of suspension. The required recommendations shall not be from judges or magistrates.

e. The applicant shall also submit satisfactory proof that the applicant, at the time of the application, has filed all reports, paid all fees, and completed all continuing legal education required by the provisions of chapters 39, 41 and 42 of the Iowa Court Rules.

**35.13(2) Procedure.** Upon filing of such application and recommendations with the clerk of the supreme court, the clerk shall give written notice thereof to all of the following:

a. The attorney general.

b. The county attorney where the applicant resides.

c. The county attorney where the applicant resided at the time of suspension.

d. The chair of the Iowa Board of Law Examiners.

e. The assistant director for attorney discipline of the office of professional regulation.

f. Each judge of the district in which the applicant resided at the time of suspension.

g. The president of a local bar association where the applicant resides.

h. The president of a local bar association where the applicant resided when the certificate was suspended.

i. The president of the Iowa State Bar Association.

**35.13(3) Written statements.** Such persons, after receipt of the notice and before the date fixed for hearing, may submit to the clerk of the supreme court written statements of fact and comments regarding the current fitness of the applicant to practice law. Such notice shall contain the date of the suspension, the date of filing the application, and the date of hearing thereon fixed by the supreme court, which shall in no case be less than 60 days after the filing of such application for reinstatement.

**35.13(4) Notice of witnesses and exhibits.** At least 14 days prior to the scheduled hearing date, the applicant and the Iowa Supreme Court Attorney Disciplinary Board shall provide notice to the court and the opposing party of the names and expected testimony of any witnesses they intend to produce and shall file and serve copies of any exhibits they intend to introduce at the hearing. The opposing party may provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. These deadlines shall be waived by the court only upon good cause shown.

**35.13(5) Hearing.** The reinstatement hearing shall be held at the time and place designated by the court. The applicant shall bear the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of suspension. The hearing shall be public unless the court orders otherwise upon motion of a party. The hearing shall be informal and the strict rules of evidence shall not apply. The court may impose reasonable time limits on the length of the hearing.

**35.13(6) Decision.** The court shall render its decision as soon as practicable after the hearing. The supreme court may require the person to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

**35.13(7) *Denial of reinstatement for failure to comply with a support order.*** An attorney who fails to comply with a support order may be denied reinstatement of the attorney's license to practice law in Iowa.

*a. Procedure.* The child support recovery unit (the unit) shall file any certificate of noncompliance which involves an attorney with the clerk of the supreme court. The procedure, including notice to the attorney, shall be governed by rule 35.19(1), except that the notice shall refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing by the attorney, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by rule 35.19(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

*d. Sharing information.* Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the unit for the sole purpose of allowing the unit to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.

**35.13(8) *Denial of reinstatement for default on student loan obligation.*** An attorney who defaults on an obligation owed to or collected by the College Student Aid Commission may be denied reinstatement of the attorney's license to practice law in Iowa.

*a. Procedure.* The College Student Aid Commission (the commission) shall file any certificate of noncompliance which involves an attorney with the clerk of the supreme court. The procedure, including notice to the attorney, shall be governed by rule 35.20(1), except that the notice shall refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing by the attorney, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by rule 35.20(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

**35.13(9) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue.*** An attorney who defaults on an obligation owed to or collected by the centralized collection unit of the department of revenue (the unit) may be denied reinstatement of the attorney's license to practice law in Iowa.

*a. Procedure.* The unit shall file any certificate of noncompliance which involves an attorney with the clerk of the supreme court. The procedure, including notice to the attorney, shall be governed by rule 35.21(1), except that the notice shall refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

*b. District court hearing.* Upon receipt of an application for hearing by the attorney, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by rule 35.21(2).

*c. Noncompliance certificate withdrawn.* If a withdrawal of a certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; June 5, 1996, effective July 1, 1996; December 20, 1996; November 25, 1998; December 17, 1998; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; April 25, 2008; June 5, 2008, effective July 1, 2008]

#### **Rule 35.14 Conviction of a crime.**

**35.14(1)** Upon receipt by the supreme court of satisfactory evidence that an attorney had pled guilty or nolo contendere to, or has been convicted of, a crime which would be grounds for license suspension or revocation, such attorney may be temporarily suspended from the practice of law by the supreme court regardless of the pendency of an appeal. Not less than 20 days prior to the effective



date of such suspension, the attorney concerned shall be notified, in writing directed by restricted certified mail to the last address as shown by the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and at a designated place to show cause why such suspension should not take place. Any hearing so held shall be informal and the strict rules of evidence shall not apply. The decision rendered may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time.

**35.14(2)** Any attorney suspended pursuant to this rule shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**35.14(3)** For good cause shown, the supreme court may set aside an order temporarily suspending an attorney from the practice of law as provided above upon application by such attorney and a hearing in accordance with rule 35.13, but such reinstatement shall neither terminate a pending disciplinary proceeding nor bar later proceedings against the attorney.

**35.14(4)** An attorney temporarily suspended under the provisions of this rule shall be promptly reinstated upon the filing of sufficient evidence disclosing the underlying conviction of a crime has been finally reversed or set aside, but such reinstatement shall neither terminate a pending disciplinary proceeding nor bar later proceedings against the attorney.

**35.14(5)** The clerk of any court in this state in which an attorney has pled guilty or nolo contendere to, or been convicted of, a crime as set forth above shall, within ten days, transmit a certified record of the proceedings to the clerk of the supreme court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; November 21, 1977; April 25, 1985; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

#### **Rule 35.15 Disbarment on consent.**

**35.15(1)** An attorney subject to investigation or a pending proceeding involving allegations of misconduct subject to disciplinary action may acquiesce to disbarment, but only by delivering to the grievance commission an affidavit stating the attorney consents to disbarment and indicating the following:

- a. The consent is freely and voluntarily given absent any coercion or duress, with full recognition of all implications attendant upon such consent.
- b. The attorney is aware of a pending investigation or proceeding involving allegations that there exist grounds for discipline, the nature of which shall be specifically set forth.
- c. The attorney acknowledges the material facts so alleged are true.
- d. In the event proceedings were instituted upon the matters under investigation, or if existent proceedings were pursued, the attorney could not successfully defend against same.
- e. The facts admitted in the affidavit would probably result in the revocation of the attorney's license to practice law.

**35.15(2)** The Iowa Supreme Court Attorney Disciplinary Board shall file a response to the affidavit, indicating whether it believes the misconduct admitted in the affidavit would probably result in revocation of the attorney's license to practice law and citing any legal authorities supporting its conclusion.

**35.15(3)** Upon receipt of such affidavit and response, the grievance commission shall cause the same to be filed with the clerk of the supreme court. The supreme court shall enter an order disbarring the attorney on consent, unless it determines the misconduct admitted in the affidavit is insufficient to support a revocation of the attorney's license. If the court determines the affidavit is insufficient, it may either enter an order allowing the parties to supplement the affidavit or an order declining to accept the affidavit. An order declining to accept the affidavit shall not bar further disciplinary proceedings against the attorney, nor shall it preclude the court from imposing any sanction warranted by the attorney's conduct upon review of a grievance commission determination.

**35.15(4)** Any order disbaring an attorney on consent shall be a matter of public record. However, the affidavit and response required above shall not be publicly disclosed or made available for use in any other proceeding except upon order of the supreme court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 26, 2004; April 20, 2005, effective July 1, 2005]

**Rule 35.16 Disability suspension.**

**35.16(1)** In the event an attorney shall at any time in any jurisdiction be duly adjudicated a mentally incapacitated person, or an alcoholic, or a drug addict, or shall be committed to an institution or hospital for treatment thereof, the clerk of any court in Iowa in which any such adjudication or commitment is entered shall, within ten days, certify same to the clerk of the supreme court.

**35.16(2)** Upon the filing of any such certificate or a like certificate from another jurisdiction or upon determination by the supreme court pursuant to a sworn application on behalf of a local bar association or the Iowa Supreme Court Attorney Disciplinary Board that an attorney is not discharging professional responsibilities due to disability, incapacity, abandonment of practice, or disappearance, the supreme court may enter an order suspending the attorney's license to practice law in this state until further order of the court. Not less than 20 days prior to the effective date of such suspension, the attorney or the attorney's guardian and the director of the institution or hospital to which the attorney has been committed, if any, shall be notified, in writing directed by restricted certified mail to the last address as shown by the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and place and show cause why such suspension should not take place. Upon a showing of exigent circumstances, emergency or other compelling cause, the supreme court may reduce or waive the 20-day period and the effective date of action above referred to. Any hearing shall be informal and the strict rules of evidence shall not apply. The decision rendered may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time. A copy of such suspension order shall be given to the suspended attorney, or to the attorney's guardian and the director of the institution or hospital to which such suspended attorney has been committed, if any, by restricted mail or personal service as the supreme court may direct.

**35.16(3)** Upon the voluntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.9112 or upon the involuntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.2106(3)(a), the supreme court may enter an order suspending the retired judicial officer's license to practice law in this state in the event the underlying disability prevents the discharge of professional responsibilities of a lawyer. The suspension shall be effective until further order of the court. A copy of such suspension order shall be given to the suspended attorney, or to the attorney's guardian and the director of the institution or hospital to which such suspended attorney has been committed, if any, by restricted mail or personal service as the supreme court may direct.

**35.16(4)** Any attorney suspended pursuant to this rule shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**35.16(5)** No attorney suspended due to disability under this rule may engage in the practice of law in this state until reinstated by order of the supreme court.

**35.16(6)** Upon being notified of the suspension of the attorney, the chief judge in the judicial district in which the attorney practiced shall appoint a lawyer or lawyers to serve as trustee to inventory the files, sequester client funds, and take any other appropriate action to protect the interests of the clients and other affected persons. Such appointment shall be subject to confirmation by the supreme court. The appointed lawyer shall serve as a special member of the Iowa Supreme Court Attorney Disciplinary Board and as a commissioner of the supreme court for the purposes of the appointment. While acting as a trustee, the trustee shall not serve as a lawyer for the clients of the disabled lawyer and other affected persons. Neither shall the trustee examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. Should any such information be acquired inadvertently, the trustee shall, as to such matters, protect the privacy interests of the disabled lawyer's clients by prompt recusal or refusal of employment. The trustee may seek reasonable fees

and reimbursement of costs of the trust from the suspended attorney. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, shall determine the merits of the claim and the amount of any payment from the fund. When the suspended attorney is reinstated to practice law in this state, or all pending representation of clients has been completed, or the purposes of the trust have been accomplished, the trustee may apply to the appointing chief judge for an order terminating the trust.

**35.16(7)** Any attorney so suspended shall be entitled to apply for reinstatement to active status once each year or at such shorter intervals as the supreme court may provide. An attorney suspended due to disability may be reinstated by the supreme court upon a showing, by clear and convincing evidence, that the attorney's disability has been removed and the attorney is fully qualified to resume the practice of law. Upon the attorney's filing of an application for reinstatement, the supreme court may take or direct any action deemed necessary or proper to determine whether such suspended attorney's disability has been removed, including an examination of the applicant by such qualified medical experts as the supreme court shall designate. In its discretion the supreme court may direct that the expenses of such an examination be paid by the attorney.

**35.16(8)** The filing of an application for reinstatement to active status by an attorney suspended due to disability shall constitute a waiver of any doctor-patient privilege with regard to any treatment of the attorney during the period of the disability. The attorney shall also set forth in the application for reinstatement the name of every psychiatrist, psychologist, physician and hospital or any other institution by whom or in which the petitioning attorney has been examined or treated since the disability suspension and shall also furnish to the supreme court written consent that any such psychiatrist, psychologist, physician and hospital or other institution may divulge any information and records requested by the supreme court or any court-appointed medical experts.

**35.16(9)** Where an attorney has been suspended due to disability and thereafter the attorney is judicially held to be competent or cured, the supreme court may dispense with further evidence regarding removal of the disability and may order reinstatement to active status upon such terms as are deemed reasonable.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; November 21, 1977; March 30, 1982; November 14, 1984, effective November 26, 1984; April 25, 1985; July 31, 1990, effective September 4, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, and July 1, 2005, effective July 1, 2005; October 12, 2005; June 5, 2008, effective July 1, 2008]

**Rule 35.17 Death or suspension of practicing attorney.** Upon a sworn application on behalf of a local bar association or the Iowa Supreme Court Attorney Disciplinary Board showing that a practicing attorney has died or been suspended or disbarred from the practice of law and a reasonable necessity exists, the chief judge in the judicial district in which the attorney practiced shall appoint a lawyer or lawyers to serve as trustee to inventory the files, sequester client funds, and take any other appropriate action to protect the interests of the clients and other affected persons. Such appointment shall be subject to confirmation by the supreme court. The appointed lawyer shall serve as a special member of the Iowa Supreme Court Attorney Disciplinary Board as a commissioner of the supreme court for the purposes of the appointment. While acting as a trustee, the trustee shall not serve as a lawyer for the clients of the disabled lawyer and other affected persons. Neither shall the trustee examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. Should any such information be acquired inadvertently, the trustee shall, as to such matters, protect the privacy interests of the disabled lawyer's clients by prompt recusal or refusal of employment. The trustee may seek reasonable fees and reimbursement of costs of the trust from the deceased attorney's estate or the attorney whose license to practice law has been suspended or revoked. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, shall determine the merits of the claim and the amount of any payment from the fund. When all pending representation of clients has been completed or the purposes of the trust have been accomplished, the trustee may apply to the appointing chief judge for an order terminating the trust.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; March 30, 1982; May 19, 1982; July 31, 1990, effective September 4, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, and July 1, 2005, effective July 1, 2005]

**Rule 35.18 Reciprocal discipline.**

**35.18(1)** Any attorney admitted to practice in this state, upon being subjected to professional disciplinary action in another jurisdiction or in any federal court, shall promptly advise the Iowa Supreme Court Attorney Disciplinary Board, in writing, of such action. Upon being informed that an attorney admitted to practice in this state has been subjected to discipline in another jurisdiction or any federal court, the board shall obtain a certified copy of such disciplinary order and file it in the office of the clerk of the supreme court.

**35.18(2)** Upon receipt of a certified copy of an order disclosing an attorney admitted to practice in this state has been disciplined in another jurisdiction or any federal court, the supreme court shall promptly give notice thereof by restricted certified mail or personal service directed to such attorney containing: a copy of the disciplinary order from the other jurisdiction or federal court, and an order directing that such disciplined attorney file in the supreme court, within 30 days after receipt of the notice, any objection that imposition of identical discipline in this state would be too severe or otherwise unwarranted, giving specific reasons. A like notice shall be sent, by ordinary mail, to the board, which shall have the right to object on the ground that the imposition of identical discipline in this state would be too lenient or otherwise unwarranted. If either party so objects, the matter shall be set for hearing before three or more justices of the supreme court and the parties notified by restricted certified mail at least ten days prior to the date set. At such hearing a certified copy of the testimony, transcripts, exhibits, affidavits and other matters introduced into evidence in such jurisdiction or federal court shall be admitted into evidence as well as any findings of fact, conclusions of law, decision and orders. Any such findings of fact shall be conclusive and not subject to readjudication. Thereafter, the supreme court shall enter such findings, conclusions and orders that it deems appropriate.

**35.18(3)** If neither party objects within 30 days from service of the notice, the supreme court may impose the identical discipline, unless the court finds that on the face of the record upon which the discipline is predicated it clearly appears that any of the following exist:

- a. The disciplinary procedure was so lacking in notice and opportunity to be heard as to constitute a deprivation of due process.
- b. There was such infirmity of proof establishing misconduct as to give rise to the clear conviction that the supreme court could not, conscientiously, accept as final the conclusion on that subject.
- c. The misconduct established warrants substantially different discipline in this state.

**35.18(4)** If the supreme court determines that any such factors exist, it may enter an appropriate order. Rule 35.13 shall apply to any subsequent reinstatement or reduction or stay of discipline.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 35.19 Suspension of attorney's license for failure to comply with a support order.** An attorney who fails to comply with a support order may be subject to a suspension of the attorney's license to practice law in Iowa.

**35.19(1) Procedure.** The child support recovery unit (the unit) shall file any certificate of noncompliance with a support order which involves an attorney with the supreme court by filing the certificate with the office of professional regulation of the supreme court at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation of the supreme court shall issue a notice to the attorney. The following rules shall apply and shall be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the unit to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the county in which the underlying support order is filed.

c. The application for hearing must be filed with the district court clerk within 30 days of the date of issuance of the notice, and copies of the application must be provided to the unit and the office of professional regulation of the supreme court by regular mail.

d. The filing of the application shall automatically stay the supreme court's action on the certificate of noncompliance.

e. The provisions of this rule shall prevail over those of any other statute or rule to the extent they may conflict.

**35.19(2) District court hearing.**

a. Upon receipt of an application for hearing by the attorney, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. The clerk shall mail copies of the order setting hearing to the obligor, the unit, and the office of professional regulation of the supreme court.

b. Prior to the hearing, the district court shall receive a certified copy of the unit's written decision and certificate of noncompliance from the unit and a certified copy of the notice from the office of professional regulation of the supreme court.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance shall be lifted.

d. The district court's scope of review shall be limited to determining if there has been a mistake of fact relating to the attorney's support delinquency. The court shall not consider visitation or custody issues, and shall not modify the support order.

e. If the district court concludes the unit erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of certificate of noncompliance, the court shall order the unit to file a withdrawal of certificate of noncompliance with the office of professional regulation of the supreme court.

**35.19(3) Noncompliance certificate withdrawn.** If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under rules of the court.

**35.19(4) Sharing information.** Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the director of the office of professional regulation of the supreme court is authorized to share information with the unit for the sole purpose of allowing the unit to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; December 20, 1996; November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; July 27, 2009]

**Rule 35.20 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the College Student Aid Commission.** An attorney who defaults on an obligation owed to or collected by the College Student Aid Commission may be subject to a suspension of the attorney's license to practice law in Iowa.

**35.20(1) Procedure.** The College Student Aid Commission (the commission) shall file any certificate of noncompliance which involves an attorney with the supreme court by filing the certificate with the office of professional regulation of the supreme court at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation of the supreme court shall issue a notice to the attorney. The following rules shall apply and shall be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the commission to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney must contact the commission to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

c. The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the attorney's county of residence.

d. The application for hearing must be filed with the district court clerk within 30 days of the date of issuance of the notice, and copies of the application must be provided to the commission and the office of professional regulation of the supreme court by regular mail.

e. The filing of the application shall automatically stay the supreme court's action on the certificate of noncompliance.

f. The provisions of this rule shall prevail over those of any other statute or rule to the extent they may conflict.

**35.20(2) District court hearing.**

a. Upon receipt of an application for hearing by the attorney, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. The clerk shall mail copies of the order setting hearing to the attorney, the commission, and the office of professional regulation of the supreme court.

b. Prior to the hearing, the district court shall receive a certified copy of the commission's written decision and certificate of noncompliance from the commission and a certified copy of the notice from the office of professional regulation of the supreme court.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance shall be lifted.

d. The district court's scope of review shall be limited to determining if there has been a mistake of fact relating to the attorney's delinquency.

e. If the district court concludes the commission erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court shall order the commission to file a withdrawal of the certificate of noncompliance with the office of professional regulation of the supreme court.

**35.20(3) *Noncompliance certificate withdrawn.*** If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under rules of the court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; November 25, 1998; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; July 27, 2009]

**Rule 35.21 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue.**

**35.21(1) *Procedure.*** The centralized collection unit of the department of revenue (the unit) shall file any certificate of noncompliance which involves an attorney with the supreme court by filing the certificate with the office of professional regulation of the supreme court at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation of the supreme court shall issue a notice to the attorney. The following rules shall apply and shall be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the unit to file a withdrawal of the certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney must contact the unit to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

c. The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the county where the majority of the liability was incurred.

d. The application for hearing must be filed with the clerk of the district court within 30 days of the date of issuance of the notice, and copies of the application must be provided to the unit and the office of professional regulation of the supreme court by regular mail.

e. The filing of the application shall automatically stay the supreme court's action on the certificate of noncompliance.

f. The provisions of this rule shall prevail over those of any other statute or rule to the extent they may conflict.

**35.21(2) *District court hearing.***

a. Upon receipt of an application for hearing by the attorney, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. The clerk shall mail copies of the order setting hearing to the attorney, the unit, and the office of professional regulation of the supreme court.

b. Prior to the hearing, the district court shall receive a certified copy of the unit's written decision and certificate of noncompliance from the unit and a certified copy of the notice from the office of professional regulation of the supreme court.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance shall be lifted.

d. The district court's scope of review shall be limited to demonstration of the amount of the liability owed or the identity of the person.

e. If the district court concludes the unit erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court shall order the unit to file a withdrawal of the certificate of noncompliance with the office of professional regulation of the supreme court.

**35.21(3) *Noncompliance certificate withdrawn.*** If a withdrawal of the certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under rules of the court.

**35.21(4) *Sharing information.*** Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the director of the office of professional regulation of the supreme court is authorized to share information with the unit for the sole purpose of allowing the unit to identify licensees subject to enforcement under Iowa Code chapter 272D.

[Court Order June 5, 2008, effective July 1, 2008; July 27, 2009]

#### **Rule 35.22 Notification of clients and counsel.**

**35.22(1)** In every case in which a respondent is ordered to be disbarred or suspended, the respondent shall do all of the following:

*a.* Within 15 days notify in writing the respondent's clients in all pending matters to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another lawyer.

*b.* Within 15 days deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.

*c.* Within 30 days refund any part of any fees paid in advance that have not been earned.

*d.* Within 15 days notify opposing counsel in pending litigation or, in the absence of such counsel the adverse parties, of the respondent's disbarment or suspension and consequent disqualification to act as a lawyer after the effective date of such discipline or transfer to disability inactive status.

*e.* Within 15 days file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.

*f.* Keep and maintain records of the steps taken to accomplish the foregoing.

*g.* Within 30 days file with the Iowa Supreme Court Attorney Disciplinary Board copies of the notices sent pursuant to the requirements of this rule and proof of complete performance of the requirements, and this shall be a condition for application for readmission to practice.

**35.22(2)** The times set forth in 35.22(1)(c) and 35.22(1)(g) of this rule shall be reduced to 15 days for respondents who are exempted from filing an application for reinstatement under rule 35.12.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; January 15, 1979; April 14, 1989, effective May 15, 1989; December 15, 1994, effective January 3, 1995; April 2, 2001; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008]

#### **Rule 35.23 Immunity.**

**35.23(1)** Complaints submitted to the grievance commission or the disciplinary board, or testimony with respect thereto, shall be privileged and no lawsuit predicated thereon may be instituted.

**35.23(2)** Claims against members of the grievance commission, the disciplinary board, and the director, assistant directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

**35.23(3)** A true copy of any complaint against a member of the grievance commission or the disciplinary board involving alleged violations of an attorney's oath of office or of the Iowa Rules of Professional Conduct and laws of the United States or state of Iowa shall be promptly forwarded to the chief justice of the supreme court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; July 31, 1987, effective September 1, 1987; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008]

**Rule 35.24 Reports.** The chair of the grievance commission and the chair of the disciplinary board shall, on February 1 of each year, submit to the supreme court a consolidated report of the number of complaints received and processed during the prior calendar year, a synopsis of each such complaint, and the disposition thereof. The name of the attorney charged and the name of the complainant shall be omitted, but a synopsis of the charges made and a report of disposition shall be included.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; October 16, 1987, effective December 1, 1987; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; June 5, 2008, effective July 1, 2008]

**Rule 35.25 Effective dates.** These rules shall have prospective and retrospective application to all alleged violations, complaints, hearings, and dispositions thereof on which a hearing has not actually been commenced before the grievance commission prior to the effective date of these rules.  
[Court Order June 10, 1964; October 8, 1970; November 8, 1974; November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008]

**Rule 35.26 Costs.**

**35.26(1)** In the event that an order of revocation, suspension, or public reprimand results from formal charges of misconduct, the supreme court shall assess against the respondent attorney the costs of the proceeding. For the purposes of this rule, costs shall include those expenses normally taxed as costs in state civil actions pursuant to the provisions of Iowa Code chapter 625.

**35.26(2)** Within 30 days of the filing of the commission report, the commission shall serve the complainant and the respondent with a bill of costs and file the bill with the clerk of the supreme court. An appeal does not obviate this requirement. The complainant and the respondent shall have ten days from the date of service to file written objections with the supreme court and the clerk of the grievance commission. Any objections filed shall be considered by the president of the grievance commission division or the president's designee. The president or the designee shall rule on the objections within ten days. The ruling and objections shall be considered by the supreme court upon disposition of the matter under rule 35.10 or 35.11. Additional costs associated with an appeal shall be taxed by the clerk as in other civil actions.

**35.26(3)** In its final decision, the supreme court shall order the respondent to pay restitution to the complainant for such costs as the supreme court may approve. A suspended or disbarred attorney may not file an application for reinstatement or readmission until the amount of such restitution for costs assessed under this rule has been fully paid, or waived by the supreme court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; September 15, 1986, effective October 1, 1986; March 27, 1990, effective May 1, 1990; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; May 30, 2007; June 5, 2008, effective July 1, 2008]

**Rule 35.27 Rules.** The grievance commission and the disciplinary board shall each adopt reasonable rules prescribing the procedure to be followed in all disciplinary proceedings before each such body, which rules shall be subject to approval by the supreme court.

[Court Order June 10, 1964; October 8, 1970; November 8, 1974; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 9, 2003; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008]



## **CHAPTER 39**

### **CLIENT SECURITY COMMISSION**

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## CHAPTER 39

### CLIENT SECURITY COMMISSION

**Rule 39.1 Client Security Commission.**

**39.1(1) *Commission.*** There is hereby created a Client Security Commission, hereinafter referred to as “commission,” which shall have the duties and powers provided in this chapter.

**39.1(2) *Duties of commission.*** The commission shall have the following duties and powers as limited and defined in this chapter:

*a.* To examine lawyer defalcations and breaches of Iowa Rules of Professional Conduct, the rules relating to the discipline of members of the Iowa bar, and to make recommendations to the supreme court concerning rule changes deemed necessary or desirable in this area.

*b.* To assist the court in administering both preventive and remedial attorney disciplinary procedures contained in these rules or other court rules.

*c.* To administer and operate the Clients’ Security Trust Fund of the Bar of Iowa, as hereinafter created, designated as the “fund.”

**39.1(3) *Appointment of commissioners.*** The supreme court shall appoint five members of the Iowa bar and two laypersons who are residents of this state to the commission. The original appointment shall be two commissioners for a one-year term, two for a two-year term, one for a three-year term, one for a four-year term and one for a five-year term. At the expiration of such terms, all subsequent appointments shall be for a term of four years, and any commissioner who has served two full terms shall not be eligible for reappointment. A vacancy occurring during a term shall be filled by the supreme court for the unexpired portion thereof.

**39.1(4) *Organization and meetings.*** The commissioners shall organize annually and shall then elect from among their number a chair and a treasurer to serve for a one-year term and such other officers for such terms as they deem necessary or appropriate. Meetings thereafter shall be held at the call of the chair or of the majority of the commissioners. Five commissioners shall constitute a quorum and may transact all business except as may be otherwise provided by this chapter and chapter 40 of the Iowa Court Rules.

**39.1(5) *Regulations.*** The commission shall adopt regulations, consistent with this chapter and subject to the approval of the supreme court, concerning all of the powers and duties granted to and imposed upon the commission by this chapter.

**39.1(6) *Reimbursement.*** The commissioners shall serve without compensation but shall be entitled to reimbursement from the fund for their expenses reasonably incurred in the performance of their duties.

[Court Order December 5, 1973; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; May 25, 2004; April 20, 2005, and July 1, 2005, effective July 1, 2005]

**Rule 39.2 Principal executive officer.**

**39.2(1) *Appointment.*** The director of the office of professional regulation shall serve as the principal executive officer of the client security commission. Wherever in this chapter a reference to the “director” appears, it shall refer to the director of the office of professional regulation. The director shall file a bond annually with the commission with such surety as may be approved by it and in such amount as it may fix. Premiums on said bond shall be paid by the fund.

**39.2(2) *Duties of director.*** Subject to the supervision of the supreme court and the commission, the director shall do the following:

*a.* Collect attorney fees and assessments for the fund and report to the commission the names and addresses of all attorneys who fail to pay the fee and assessment.

*b.* Serve as executive secretary to the commission and assist in the operation and administration of the fund.

*c.* Conduct investigations and audits of attorneys’ accounts and office procedures to determine compliance with this chapter, Iowa Rule of Professional Conduct 32:1.15, and chapter 45 of the Iowa Court Rules and report violations to the commission.

*d.* Maintain an office in such place as the supreme court shall designate, act as a liaison between the court, the commission, and other commissions, committees, boards, and personnel serving a function in the disciplinary system, and maintain for the court records of disciplinary proceedings and such other information and data as the court shall require.

e. Upon request of the commission, institute disciplinary proceedings before the grievance commission pursuant to chapter 35 of the Iowa Court Rules.

f. Perform such other functions and duties as may be directed by the supreme court.  
[Court Order December 5, 1973; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007]

### **Rule 39.3 Clients' security trust fund of the bar of Iowa.**

**39.3(1) *Creation, operation and purpose.*** A trust fund, to be known as the "Clients' Security Trust Fund of the Bar of Iowa" (hereinafter, the "fund") is hereby authorized and created.

**39.3(2) *Administration.*** The fund shall be operated and administered by the commission in accordance with this chapter.

**39.3(3) *Purpose.*** The purpose of the fund shall be to prevent defalcations by members of the Iowa bar, and insofar as practicable, to provide for the indemnification by the profession for losses caused to the public by the dishonest conduct of members of the bar of this state, and to provide funding for the administration of the lawyer disciplinary system and other programs which impact the disciplinary system including, but not limited to, the Iowa Lawyer's Assistance Program.

**39.3(4) *Powers and duties of commission relating to the fund.*** The commission, in addition to the powers granted elsewhere in this chapter, shall have the following powers and duties:

a. To receive, hold, manage, and distribute, pursuant to the direction of the supreme court and this chapter, the moneys raised hereunder, and any other amounts that may be received by the fund through voluntary contributions or otherwise.

b. To adopt, subject to the approval of the supreme court, regulations for the administration of the fund and the procedures for presentation, consideration, recognition, rejection and payment of claims, and for conducting business. A copy of such regulations shall be filed with the clerk of the supreme court.

c. To enforce claims for restitution, arising by subrogation or assignment or otherwise.

d. To invest the fund, or any portion thereof, in those investments and in the percentages authorized by Iowa Code section 97B.7, (investments for Iowa public employees' retirement system); provided, however, the commission shall not be required to invest such portions of the fund as it may deem necessary to be currently available for payment of claims and other expenses required by this chapter. All interest or other income received in the operation of the fund shall become a part of the fund.

e. To employ and compensate consultants, agents, legal counsel and employees.

f. To delegate the power to perform routine acts which may be necessary or desirable for the operation of the fund, including the power to authorize disbursements for routine operating expenses of the fund, and all necessary expenses of the assistant administrator and staff in the performance of their duties; but authorization for payment of claims shall be made only by the commission under the provisions of this chapter.

g. To sue in the name of the commission without joining any or all individual commissioners.

h. To purchase complementary fidelity coverage for the fund in such amount and with such limitations or deductible limits as in its discretion it determines proper.

i. To pay reasonable and necessary attorney fees incurred by the commissioners of the supreme court in implementing chapter 35 of the Iowa Court Rules in disciplinary proceedings based on attorney defalcations or which are initiated pursuant to rule 39.2(3)(e).

j. To fund programs which the commission believes will assist in preventing defalcations by attorneys. The annual allocation for any such program shall not exceed two and one-half percent of the fund value as of the beginning of the fiscal year in which the funding is to occur. No such funding may be provided unless there is at least twice the minimum balance required by rule 39.6(4) in the fund at the beginning of the fiscal year in which the funding is to occur.

**39.3(5) *Applications to the supreme court.*** The commission may apply to the supreme court for interpretations of this chapter and of the extent of the commission's powers thereunder and for advice regarding the proper administration of the fund. Interpretations of the supreme court shall be obligatory when rendered.

[Court Order November 9, 2001, effective February 15, 2002]

### **Rule 39.4 Audit — treasurer's duties — budget.**

**39.4(1) *Audit and report.*** On March 1 of each year, and at such additional times as the supreme court may order, the commission shall file with the supreme court a written report reviewing in detail

the administration of the fund during the preceding calendar year together with an audit of the fund certified by a certified public accountant licensed to practice in Iowa.

**39.4(2) *Treasurer's duties.*** The treasurer elected by the commission shall maintain the assets of the fund in a separate account and shall disburse moneys from the fund only at the direction of the supreme court or upon the action of the commission pursuant to this chapter. The treasurer shall file a bond annually with the commission with such surety as may be approved by it and in such amount as it may fix. Premiums on said bond shall be paid by the fund. A separate bookkeeping account designated as the disciplinary fund account shall be maintained within the fund for moneys derived from the annual disciplinary fee set out in rule 39.5. Fees, penalties, or investment income derived from the investment of the income from annual disciplinary fees and penalties shall be placed in the disciplinary fund account.

**39.4(3) *Budget.*** At least 60 days prior to the commencement of each fiscal year, the commission shall submit to the supreme court its budget of operations of such year, which may be amended thereafter as necessity dictates.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007]

**Rule 39.5 Annual disciplinary fee.** As a condition to continuing membership in the bar of the supreme court, including the right to practice law before Iowa courts, every bar member, unless exempted, shall pay to the commission through the office of professional regulation an annual fee<sup>1</sup> as determined by the supreme court to finance the disciplinary system. The annual fee shall be due on or before March 1 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31. Members of the bar of the supreme court who certify in writing to the commission that they are a justice, judge, associate judge, or full-time magistrate of any court, spend full time in the military service of the United States following admission to the Iowa bar, are admitted on examination to the bar of Iowa during the current calendar year, or are issued a certificate of exemption pursuant to the provisions of rule 39.7 shall be exempt from payment of this fee.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007]

#### **Rule 39.6 Fund assessments.**

**39.6(1) *Assessments.*** As a condition to continuing membership in the bar of the supreme court, including the right to practice law before Iowa courts, every bar member, except one to whom a certificate of exemption has been issued pursuant to the provisions of rule 39.7, shall pay to the commission through the office of professional regulation the assessment specified in rule 39.6(2), or assessments provided by court order, [subject to rules 39.6(3), 39.6(4), and 39.6(5)] annually to prevent defalcations and insofar as practicable to provide indemnification for losses caused to the public by dishonest conduct of members of the Iowa bar. Assessments shall be due on or before March 1 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31.

##### **39.6(2) *Assessment schedule.***

For the calendar year of the member's admission on examination to the bar of Iowa, and for the calendar year thereafter. . . . . None.

For the calendar year of the member's admission on motion to the bar of Iowa . . . . . \$50.

For the years other than those heretofore exempted, up to and including the fifth calendar year of admission to the bar of Iowa . . . . . \$50 annually.

For the years after the fifth calendar year of admission to the bar of Iowa . . . . . \$100 annually.

In making any of the above calculations, time spent full-time in the military service of the United States following admission to the Iowa bar and during the years under consideration shall be excluded.

[Court Order June 13, 1979; November 13, 1984; November 15, 1985; November 11, 1986; November 19, 1987; October 20, 1988; November 16, 1989; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; December 5, 2007]

**39.6(3) *Alternative to fixed assessment.*** Members of the bar of the supreme court may, at their election, instead of the fixed assessment set forth in rule 39.6(2), pay to the commission, as their assessment for any particular calendar year, an amount equal to one percent of their net income derived from the practice of law in Iowa for the preceding calendar year, but in no event less than \$25.

1. \$175 for calendar year 2009 [October 28, 2008]

Net income from the practice of law shall be for the purposes of this rule that amount shown on the federal income tax return of such members for the appropriate year as “profit or loss from business or profession.” The commission may require members so electing to submit to the commission a copy of their federal income tax return for the appropriate year to substantiate the amount due hereunder.

**39.6(4) *Certificate of sufficiency.*** The commission shall determine the net value of the cash and securities in the fund for the purpose of preventing defalcation as of December 1 of each year. Whenever the value of such assets shall equal \$600,000 after deducting all claims and requests for reimbursement against the fund, not disposed of at the date of valuation, and all expenses properly chargeable against the fund, the commission shall file with the supreme court prior to December 31 of such year a certificate to that effect which shall be known as a certificate of sufficiency. When a certificate of sufficiency is filed with the supreme court, the annual assessment set forth in rule 39.6(2) for the next calendar year after the date of evaluation in said certificate shall be waived for each member of the bar obligated under the above schedule to pay any amount and who has paid assessments to the fund in the total sum of \$200 in prior years notwithstanding anything heretofore or hereinafter provided.

**39.6(5) *Judges, government attorneys, corporate counsel.*** In lieu of the assessment set forth in rule 39.6(2), any member of the bar of the supreme court who certifies in writing to the commission that the member is a justice, judge, associate judge, or full-time magistrate of any court, or one who performs legal services only for a governmental unit, or one who performs legal services only for a particular person, firm, or corporation (other than a professional legal corporation or a law firm) and stands in the legal capacity with such person, firm, or corporation as an employee, shall pay to the commission an assessment of \$25 annually while so engaged, provided that if under rule 39.6(4) the commission has filed a certificate of sufficiency with the court then the annual assessment for each bar member referred to herein who has paid to the commission a total of \$200 in assessments shall be waived each year that the certificate of sufficiency is filed by the commission. Provided, however, that a retired judge or justice recalled for temporary service shall not be required to pay an assessment or surrender their certificate of exemption.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007]

**Rule 39.7 Certificate of exemption — required statement.** A member of the bar of the supreme court who is not engaged in the practice of law in the state of Iowa may be granted a certificate of exemption by the commission, and thereafter no fee or assessment shall be required from such member unless the member thereafter engages in the practice of law in the state of Iowa, in which case the certificate of exemption shall without further order of court stand revoked and the member shall file at once the statement required by rule 39.8(1), and the questionnaire required by rule 39.11 and pay the fee and assessment due under rules 39.5 and 39.6. A member of the bar requesting a certificate of exemption shall file with the director the statement required by rule 39.8(1), and such part of the rule 39.11 questionnaire as the director may deem necessary to determine the member’s status. The practice of law as that term is employed in this chapter includes the examination of abstracts, consummation of real estate transactions, preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns as well as the representation of others in any Iowa courts, the right to represent others in any Iowa courts, or to regularly prepare legal instruments, secure legal rights, advise others as to their legal rights or the effect of contemplated actions upon their legal rights, or to hold oneself out to so do; or to be one who instructs others in legal rights; or to be a judge or one who rules upon the legal rights of others unless neither the state nor federal law requires the person so judging or ruling to hold a license to practice law.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007]

#### **Rule 39.8 Enforcement.**

**39.8(1)** To facilitate the collection of the annual fee and assessment provided for in rules 39.5 and 39.6, all members of the Iowa bar required to pay the fee and assessment, and those exempted other than by rule 39.7, shall, on or before March 1 of each year, file a statement, on a form prescribed by the director, setting forth their date of admission to practice before the supreme court, their current residence and office addresses, and such other information as the director may from time to time direct. In addition to such statement, every bar member shall file a supplemental statement of any change in the information previously submitted within 30 days of such change. All persons admitted to practice before the supreme court shall file the statement required by this rule at the time of admission but no annual fee or assessment shall be payable until the time above provided. All attorneys failing to file

the required statement by March 1 of each year shall, in addition to the annual fee and assessment provided for above, pay a penalty<sup>2</sup> as set forth in the following schedule if the statement is filed after March 1.

<sup>3</sup>Penalty Schedule:

If Filed:	Penalty:
After March 1 but before April 2	\$100
After April 1 but before May 2	\$150
After May 1	\$200

**39.8(2)** Attorneys who fail to timely pay the fee and assessment required under rules 39.5 and 39.6, or fail to file the statement or supplement thereto provided in rule 39.8(1), may have their right to practice law suspended by the supreme court, provided that at least 15 days prior to such suspension, a notice of delinquency has been served upon them in the manner provided for the service of original notices in Iowa R. Civ. P. 1.305, or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys shall be given the opportunity during said 15 days to file in duplicate in the office of professional regulation an affidavit disclosing facts demonstrating the noncompliance was not willful and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of the clerk of the supreme court a request for hearing to show cause why their license to practice law should not be suspended. A hearing shall be granted if requested. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney shall be notified thereof by either of the two methods above provided for notice of delinquency.

**39.8(3)** Any attorney suspended pursuant to this chapter shall do all of the following:

- a. Within 15 days in the absence of co-counsel, notify clients in all pending matters to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another lawyer.
- b. Within 15 days deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.
- c. Within 30 days refund any part of any fees paid in advance that have not been earned.
- d. Within 15 days notify opposing counsel in pending litigation or, in the absence of such counsel, the adverse parties, of the suspension and consequent disqualification to act as a lawyer after the effective date of such discipline.
- e. Within 15 days file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.
- f. Keep and maintain records of the steps taken to accomplish the foregoing.
- g. Within 30 days file proof with the supreme court and with the Iowa Supreme Court Attorney Disciplinary Board of complete performance of the foregoing, and this shall be a condition for application for readmission to practice.

**39.8(4)** Any attorney suspended pursuant to this chapter shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

**39.8(5)** Attorneys who have been suspended pursuant to this chapter or who currently hold a certificate of exemption and who practice law or who hold themselves out as being authorized to practice law in this state are engaged in the unauthorized practice of law and may also be held in

2. The penalty prior to January 1, 2009, is \$25.

3. Penalty schedule effective January 1, 2009.

contempt of the court or may be subject to disciplinary action as provided by chapter 35 of the Iowa Court Rules.

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; April 25, 2008<sup>4</sup>; June 5, 2008, effective July 1, 2008]

### **Rule 39.9 Claims.**

**39.9(1)** The commission shall consider for payment all claims resulting from the dishonest conduct of a member of the bar of this state acting either as an attorney or fiduciary, provided that all of the following are established:

*a.* Said conduct was engaged in while the attorney was a practicing member of the bar of this state and the claim arises out of the practice of law in this state.

*b.* Such defalcation or dishonest conduct occurred after January 1, 1974.

*c.* The claim is made within one year after the client's discovery of the loss; provided, however, such time limitation in unusual circumstances may be extended by the commission in its discretion for good cause shown.

*d.* The claim is made directly by or on behalf of the injured client or the client's personal representative or, if a corporation, by or on behalf of itself or its successors in interest.

*e.* The commission is satisfied that there is no other source or collateral source for the reimbursement of the loss.

*f.* Claims shall not be paid which arise out of an employer-employee relationship as distinguished from a lawyer-client relationship or a fiduciary relationship.

**39.9(2)** The commission is invested with the power, which it shall exercise in its sole discretion, to determine whether a claim merits reimbursement from the fund, and if so, the amount of such reimbursement, the time, place and manner of its payment, the conditions upon which payment shall be made, and the order in which payment shall be made. The commission's powers in this respect may be exercised only by the affirmative vote of at least four commissioners. In making such determinations, the commission shall consider among other appropriate factors, the following:

*a.* The amounts available and likely to become available to the fund for the payment of claims and the size and number of claims which are likely to be presented.

*b.* The total amount of reimbursable losses in previous years for which total reimbursement has not been made, if any, and the total assets of the fund.

*c.* The amount of the claimant's loss as compared to the amount of losses sustained by other eligible claimants.

*d.* The degree of hardship suffered by the claimant as a result of the loss.

*e.* The degree of negligence, if any, of the claimant which may have contributed to the loss.

*f.* The total amount of losses caused by defalcations of any one attorney or associated group of attorneys.

**39.9(3)** The commission shall, by regulation approved by the supreme court, fix the maximum amount which any one claimant may recover from the fund and the aggregate maximum amount which may be recovered because of the dishonest conduct of any one attorney.

**39.9(4)** No claimant or any other person or organization shall have any right in the fund as third-party beneficiary or otherwise. Reimbursement by claim on the fund shall be a matter of grace and not of right.

**39.9(5)** The commission may require as a condition to payment that the claimant execute an assignment of claimant's right against the defaulting lawyer.

**39.9(6)** No claimant need be represented by counsel before the commission. No attorney representing a claimant shall receive a fee for services from the fund. Any agreement for compensation between a claimant and any attorney retained for prosecution of the claim shall be subject to the approval of the commission.

**39.9(7)** The commission may request individual lawyers, bar associations, and other organizations of lawyers to assist the commission in the investigation of claims.

**39.9(8)** The payment or denial of any claim filed under the provisions of this rule shall be inadmissible as evidence in any disciplinary or contempt proceeding.

[Court Order December 5, 1973; April 22, 1974; October 16, 1974; April 9, 1975; April 10, 1975; August 29, 1975; October 28, 1976; November 21, 1977; January 15, 1979; June 20, 1980; April 21, 1982; November

4. Penalty schedule in 39.8(1) effective January 1, 2009



13, 1984; April 25, 1985; February 16, 1990, effective March 15, 1990; December 15, 1994, effective January 3, 1995; March 6, 1995; January 24, 2000; November 9, 2001, effective February 15, 2002]

**Rule 39.10 Investigations and audits.**

**39.10(1)** Each member of the bar of Iowa, in filing the statement required by rule 39.8(1), shall authorize the director to investigate, audit, and verify all funds, securities, and other property held in trust by the member, and all related accounts, safe deposit boxes, and any other forms of maintaining trust property as required by Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the Iowa Court Rules, together with deposit slips, canceled checks, and all other records pertaining to transactions concerning such property.

**39.10(2)** Each member of the bar of Iowa shall comply promptly with any request by the director to execute and deliver to the director a written authorization, directed to any bank or depository, for the director to audit and inspect such accounts, safe deposit boxes, securities, and other forms of maintaining trust property by the member in such bank or other depository.

**39.10(3)** Each member of the bar of Iowa shall do all of the following:

*a.* Cooperate fully with the director in any investigation, audit, or verification of any funds, securities, or property held in trust by that lawyer.

*b.* Answer all questions posed by the director which relate to any investigation, audit, or verification, unless claiming the privilege against self-incrimination.

*c.* Retain complete records of all trust fund transactions for a period of not less than six years following completion of the matter to which they relate, in accordance with Iowa Rule of Professional Conduct 32:1.15 and Iowa Ct. R. 45.2(2).

**39.10(4)** The commission with the approval of the supreme court may retain, compensate from the fund, and furnish as staff for the director, such public or certified accountants, investigators, or attorneys as may be deemed necessary to carry out the duties and functions imposed upon the director. When acting under the director's supervision and direction, such staff personnel shall have all the powers granted to the director by this chapter.

**39.10(5)** When the investigation, audit, or verification provisions of this chapter disclose, in the opinion of the director, a violation of the Iowa Rules of Professional Conduct, or when the member of the bar of Iowa affected by the investigation, audit, or verification has refused to comply with the provisions of this chapter, the director shall promptly report such circumstances to the commission. A copy of such report shall be furnished to the member affected.

**39.10(6)** However, client trust funds and property held by an Iowa licensed attorney whose law office is situated in another state shall not be subject to investigation, audit, or verification except to the extent such funds and property are related to matters affecting Iowa clients. State or federal funds or property subject to state or federal auditing procedures and in control of an Iowa licensed attorney employed full- or part-time by a state or the United States shall not be subject to investigation, audit, or verification under the provisions of this chapter.

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007]

**Rule 39.11 Annual questionnaire.**

**39.11(1)** The director under the supervision of the supreme court and the commission shall prepare a questionnaire to be annually submitted to and completed by each member of the bar of Iowa except those who have been issued a certificate of exemption pursuant to rule 39.7. Said questionnaire may be (but is not required to be) incorporated as a part of the annual statement provided in rule 39.8(1). This questionnaire shall elicit information to determine whether the member is complying with the Iowa Court Rules, including but not restricted to, Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the rules. The commission may prescribe an electronic format for the questionnaire and annual statement and require submission of the questionnaire and annual statement in that form.

**39.11(2)** A failure to complete and return a questionnaire shall be addressed as provided in rule 39.12.

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; June 5, 2008, effective July 1, 2008]

**Rule 39.12 Investigations, audits, and annual questionnaire — enforcement.**

**39.12(1)** *Failure of bar members to cooperate.*

a. The continued right of a member of the Iowa bar to practice law in this state is conditioned upon the member executing and delivering the authorization provided in rule 39.10(2), furnishing the cooperation required in rule 39.10(3), and completing and returning the annual questionnaire described in rule 39.11. Upon failure of a member of the Iowa bar to comply with any of the rules specified in this paragraph, the member's right to practice law before Iowa courts may be suspended, following the procedure specified in rule 39.8(2).

b. A member of the bar of Iowa who willfully fails to comply with those rules enumerated in rule 39.12(1)(a) may be held in contempt of the supreme court or may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules.

**39.12(2) *Violation of the Iowa Rules of Professional Conduct.***

a. When the audit, investigation, or verification of funds, securities, or other property held in trust by any member of the bar of Iowa, or a return of any member on the annual questionnaire, discloses an apparent violation of the Iowa Rules of Professional Conduct, the director upon request of the commission, or the commission, may institute disciplinary proceedings under chapter 35 of the Iowa Court Rules for the suspension or revocation of the member's license to practice law in this state.

b. All information obtained by the director and staff by virtue of the audits, investigations and verifications, and annual questionnaire, shall be held in strict confidence by them and by the supreme court and the commission unless otherwise directed by the supreme court or unless proceedings are initiated pursuant to chapter 35 of the Iowa Court Rules or Iowa Code section 602.10123. If proceedings are initiated pursuant to chapter 35 of the Iowa Court Rules, such information relating to the named respondent may be released only to the respondent, the disciplinary board, and the grievance commission. If proceedings are initiated pursuant to Iowa Code section 602.10123, such information relating to the named accused may be released only to the accused and the attorney general or the special assistant attorney general designated pursuant to Iowa Code section 602.10127, to prosecute the charges.

**39.12(3) *Commission subpoena authority.***

a. The commission shall have subpoena power during any investigation conducted on its behalf to compel the appearance of witnesses or the production of documents before the person designated to conduct the investigation on behalf of the commission.

b. The commission chair, or other commission member in the absence of the chair, shall have authority to issue a subpoena.

c. The district court for the county in which the investigation is being conducted shall have jurisdiction over any objection or motion relating to a subpoena and authority to punish disobedience of a subpoena in a contempt proceeding.

d. Counsel for the commission, the director, or any other person authorized to administer oaths shall have authority to administer an oath or affirmation to a witness.

[Court Order December 5, 1973; September 19, 1974; October 16, 1974; April 9, 1975; April 30, 1982; August 14, 1986, and August 18, 1986, effective September 2, 1986; May 10, 1990, effective July 2, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 9, 2003; April 20, 2005, effective July 1, 2005; December 5, 2007]

**Rule 39.13 Attorneys acting as fiduciaries.**

**39.13(1)** After January 1, 1974, unless a lawyer is the spouse of or is the son-in-law or daughter-in-law of or is related by consanguinity or affinity, within the third degree, to the decedent in an estate, the ward in a conservatorship, the settlor or beneficiary of a trust, or unless such attorney is coexecutor, cotrustee, or coconservator with another party or parties and such other party or parties will receive and pay out any of the funds, securities or other property of the estate, trust, or conservatorship, such lawyer shall not be appointed by a court in any fiduciary capacity for an estate, trust, or conservatorship until the lawyer has posted a bond in an amount to be determined by the court with sureties approved by the court, and no waiver of such bond shall be recognized by any court of this state. In the event the surety on the bond posted by the lawyer is not a corporate surety, the surety thereon shall not be the ward, any beneficiary or distributee or be related to the lawyer, the ward, or any beneficiary or distributee within the third degree of consanguinity or affinity.

**39.13(2)** A lawyer who willfully fails to comply with the provisions of this rule may be held in contempt of the supreme court, or may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules.

[Court Order November 9, 2001, effective February 15, 2002]

**Rule 39.14 Reinstatement from exemption or suspension.**

**39.14(1)** An attorney who has been suspended for failure to pay the annual fee or assessment or for failure to file the statement, supplement, or questionnaire required by these rules may be reinstated upon a showing that such failure was not willful and by filing the statement required by rule 39.8(1) and the questionnaire required by rule 39.11. An attorney seeking reinstatement after suspension for failure to comply with the provisions of this rule shall pay all delinquent fees, assessments and late filing penalties due under rules 39.5, 39.6 and 39.8, and a reinstatement fee of \$100.

**39.14(2)** An attorney who applies for reinstatement from suspension under the provisions of chapter 35 shall first file the statement required by rule 39.8(1) and the questionnaire required by rule 39.11, pay all fees, assessments and late filing penalties due and unpaid under rules 39.5, 39.6 and 39.8 at the time of the suspension, pay the current fee and assessment required by rules 39.5 and 39.8, and a reinstatement fee of \$100.

**39.14(3)** An attorney who has been granted a certificate of exemption under the provisions of rule 39.7 may be reinstated after filing the statement required by rule 39.8(1) and the questionnaire required by rule 39.11, paying all late filing penalties due at the time the exemption was granted, and paying the current fee and assessment required by rules 39.5 and 39.6.

[Court Order April 25, 2008; August 10, 2009]

**Rule 39.15 Denial of reinstatement for failure to comply with certain obligations.**

**39.15(1)** *Denial of reinstatement for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue.* The supreme court may deny a lawyer's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue. The procedure shall be governed by rule 35.21.

**39.15(2)** *Denial of reinstatement for failure to comply with an obligation owed to or collected by the College Student Aid Commission.* The supreme court may deny a lawyer's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the College Student Aid Commission. The procedure shall be governed by rule 35.20.

**39.15(3)** *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny a lawyer's application for reinstatement under rule 39.14 for failure to comply with a support order. The procedure shall be governed by rule 35.19.

[Court Order June 5, 2008, effective July 1, 2008]



**CHAPTER 42**  
**REGULATIONS OF THE COMMISSION ON CONTINUING**  
**LEGAL EDUCATION**

Rule 42.1	Definitions
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## CHAPTER 42

### REGULATIONS OF THE COMMISSION ON CONTINUING LEGAL EDUCATION

**Rule 42.1 Definitions.** For the purpose of these regulations, the following definitions shall apply:

An “*accredited program or activity*” shall mean a continuing legal education activity meeting the standards set forth in rule 42.3 which has received advanced accreditation by the commission pursuant to rule 42.4.

An “*attorney*” shall mean any person licensed to practice law in the state of Iowa.

The “*commission*” shall mean the Commission on Continuing Legal Education or any division thereof.

An “*hour*” of continuing legal education shall mean a clock-hour spent by an attorney in actual attendance at or completion of an accredited legal education activity.

A “*quorum*” of the entire commission shall mean six or more members of the commission.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002]

**Rule 42.2 Continuing legal education requirement.**

**42.2(1)** A minimum of 15 hours of continuing legal education must be completed by each attorney for each calendar year in the manner stated in Iowa Ct. R. 41.3(1). Effective January 15, 1988, each attorney shall, every two years, complete a minimum of two hours of legal education devoted specifically to the area of legal ethics.

**42.2(2)** Hours of continuing legal education credit may be obtained by attending or participating in a continuing legal education activity, either previously accredited by the commission or which otherwise meets the requirements herein and is retroactively accredited by the commission pursuant to rule 42.4(3).

**42.2(3)** An attorney desiring to obtain credit for one or more succeeding calendar years, not exceeding two such years, for completing more than 15 hours of accredited legal education during any one calendar year, under Iowa Ct. R. 41.3(1), shall report such “carry-over” credit at the time of filing the annual report to the commission on or before March 1 of the year following the calendar year during which the claimed additional legal education hours were completed.

[Court Order November 25, 1975; December 6, 1978; January 8, 1988; November 9, 2001, effective February 15, 2002]

**Rule 42.3 Standards for accreditation.**

**42.3(1)** A continuing legal education activity qualifies for accreditation if the commission determines that the activity complies with all of the following:

*a.* It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of an attorney.

*b.* It pertains to common legal subjects or other subject matters which integrally relate to the practice of law.

*c.* It is conducted by attorneys or individuals who have a special education, training, and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and preferably is accompanied by a paper, manual, or written outline which substantively pertains to the subject matter of the program.

*d.* It is presented live or by computer-based transmission. Activities presented by computer-based transmission must be interactive as defined by the accreditation policies of the commission.

**42.3(2)** No activity will be accredited which involves solely self-study, including television viewing, video or sound recorded programs, or correspondence work, except as may be allowed pursuant to rule 42.5.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002]

**Rule 42.4 Accreditation of programs and activities.**

**42.4(1) Prior accreditation of activities.** An organization or person that desires prior accreditation of a course, program or other legal education activity satisfying Iowa Ct. R. 41.2, or an attorney who desires to establish accreditation of such activity prior to attendance, shall apply for accreditation to the commission at least 60 days in advance of the commencement of the activity on a form provided by the commission. The commission shall approve or deny such application in writing within 30 days

of receipt of such application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers, and other pertinent information.

**42.4(2) *Post-accreditation of activities.*** An attorney or organization on behalf of an attorney seeking credit for attendance at or participation in an educational activity which has not received prior accreditation shall submit to the commission, within 30 days after completion of such activity, a request for credit, including a brief résumé of the activity, its dates, subjects, instructors and their qualifications, and the number of credit hours requested therefor. Within 30 days after receipt of such application, the commission shall advise the attorney or organization in writing by ordinary mail whether the activity is accredited and the number of hours allowed therefor. An attorney or organization not complying with the requirements of this rule may be denied credit for such activity.

**42.4(3) *Fee for organization applications for accreditation.*** To support administration of this chapter, any organization or other activity sponsor applying for accreditation of an activity shall pay to the commission a prescribed nonrefundable application fee for each activity. No application fee shall be required of an attorney who applies for accreditation solely as an attendee. The commission may waive the application fee for any of the following reasons:

- a. For any activity offered at no charge to attendees for the educational portion of the activity.
- b. For any presentation of the identical program at additional places or dates during a calendar year, provided the original presentation of the program was approved.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; November 23, 2004, effective July 1, 2005]

#### **Rule 42.5 Hardships or extenuating circumstances.**

**42.5(1)** The commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms prescribed by the commission. A \$25 fee will be assessed on all waiver or extension of time applications received after January 15 of the year following the year in which the alleged hardship occurred.

**42.5(2)** Waivers of the minimum educational requirements may be granted by the commission for any period of time not to exceed one year. In the event that the hardship or extenuating circumstances upon which a waiver has been granted continue beyond the period of the waiver, the attorney must reapply for an extension of the waiver. The commission may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the commission.

**42.5(3)** Extensions of time within which to fulfill the minimum educational requirements may, in individual cases involving hardship or extenuating circumstances, be granted by the commission for a period not to exceed six months immediately following expiration of the year in which the requirements were not met. Hours of minimum educational requirement completed within such an extension period shall be applied first to the minimum educational requirement for the preceding year and shall be applied to the current or following year only to the extent that such hours are not required to fulfill the minimum educational requirement for the preceding year.

[Court Order November 25, 1975; August 12, 1980; November 9, 2001, effective February 15, 2002]

**Rule 42.6 Exemptions for inactive practitioners.** A member of the bar who is not engaged in the practice of law in the state of Iowa as defined in Iowa Ct. R. 39.7 residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the commission. The application shall contain a statement that the applicant will not engage in the practice of law in Iowa, as defined in Iowa Ct. R. 39.7, without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form prescribed by the commission.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002]

#### **Rule 42.7 Reinstatement of inactive practitioners.**

**42.7(1)** Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of law in the state of Iowa as defined in Iowa Ct. R. 39.7, satisfy the following requirements for reinstatement:



a. Submit written application for reinstatement to the commission upon forms prescribed by the commission together with a reinstatement fee of \$25 and all late filing penalties due at the time the exemption was granted.

b. Furnish in the application evidence of one of the following:

(1) Having engaged in the full-time practice of law, as defined in Iowa Ct. R. 39.7, in another state of the United States or the District of Columbia and completion of continuing legal education for each year of inactive status substantially equivalent in the opinion of the commission to that required under chapter 41 of the Iowa Court Rules.

(2) Successful completion of an Iowa state bar examination conducted within one year immediately prior to the submission of such application for reinstatement.

(3) Completion of a total number of hours of accredited continuing legal education computed by multiplying 15 by the number of years a certificate of exemption shall have been in effect for such applicant. The continuing legal education required for reinstatement shall include hours devoted specifically to the area of legal ethics, computed as follows: two hours for every two calendar years following January 15, 1988, in which a certificate of exemption shall have been in effect. Alternatively, the legal ethics requirement may be satisfied by obtaining a scaled score of 80 or higher on the Multistate Professional Responsibility Examination within one year immediately prior to the submission of the application for reinstatement.

**42.7(2)** Notwithstanding that an applicant for reinstatement has not fully complied with the requirements for reinstatement set forth in rule 42.7(1)(b), the commission may conditionally reinstate such applicant on such terms and conditions as it may prescribe regarding the period of time in which the applicant shall furnish evidence of compliance with the requirements of rule 42.7(1)(b). [Court Order November 25, 1975; July 28, 1977; January 8, 1988; December 15, 1994, effective January 3, 1995; April 10, 1997; November 9, 2001, effective February 15, 2002; August 10, 2009]

**Rule 42.8 Staff.** The assistant director for boards and commissions of the office of professional regulation shall serve as the principal executive officer of the commission. The commission may, subject to the approval of the court, employ such other employees as the commission deems necessary to carry out its duties under chapter 41 of the Iowa Court Rules, who shall perform such duties as the commission may from time to time direct.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 5, 2007]

**Rule 42.9 Divisions.** The commission may organize itself into divisions of not fewer than three members for the purpose of considering and deciding matters assigned to them.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002]

**Rule 42.10 Hearings.** In the event of denial, in whole or in part, of any application, the applicant shall have the right, within 20 days after the sending of the notification of the denial by ordinary mail, to request in writing a hearing before the commission which shall be held within 90 days after receipt of the request for hearing. The decision of the commission after such hearing shall be final. Any hearing on a revocation of the accreditation of an accredited sponsor, the denial of a hardship application, or a recommendation for disciplinary action under Iowa Ct. R. 41.5(4) shall be before a quorum of the entire commission.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002]

**Rule 42.11 Notice of failure to comply.** In the event an attorney fails to comply with the provisions of Iowa Ct. R. 41.4 or files a report showing on its face failure to complete the required number of accredited hours of continuing legal education, the commission shall notify said attorney in writing of such apparent noncompliance and said attorney shall have 15 days from the mailing of said notice to cure said failure to comply or make an appropriate application under rule 42.5. If the failure to comply is not cured or such application not approved, the commission shall report promptly to the supreme court the failure of the attorney to comply with chapter 41 of the Iowa Court Rules.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002]



**CHAPTER 47**  
**RULES ON THE QUALIFICATIONS, APPOINTMENT AND**  
**COMPENSATION OF COURT INTERPRETERS**

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## CHAPTER 47

### RULES ON THE QUALIFICATIONS, APPOINTMENT AND COMPENSATION OF COURT INTERPRETERS

[Prior to April 1, 2008, see Chapter 14]

#### **Rule 47.1 Qualifications of a court interpreter.**

##### **47.1(1) Qualifications.**

- a. Minimum age.* A court interpreter shall be at least 18 years old.
- b. Education.* A court interpreter shall have at least a high school diploma or its equivalent.
- c. Court interpreter application form.* A court interpreter shall complete an application form, developed by the director of the office of professional regulation, on which the interpreter shall provide information about the interpreter's education, experience, and references to assist the court in determining the interpreter's qualifications for court interpreting.
- d. Oath.* A court interpreter shall sign an oath asserting the interpreter has the knowledge and skills to be a competent court interpreter, that the interpreter understands and will abide by the Code of Professional Conduct for Judicial Branch Interpreters in Chapter 48 of the Iowa Court Rules, and that the interpreter will interpret in court to the best of the interpreter's ability.
- e. Criminal records search.* A criminal records search shall be completed by the director of the office of professional regulation. This requirement may be waived for an interpreter who has had a prior criminal records search completed by the director.
- f. Criminal record.* A person who has been convicted of the following types of crimes shall be barred from being a court interpreter:
  - (1) Felony. A person who has been convicted of a felony in any jurisdiction shall be barred from being a court interpreter. An offense is a felony if, by the law under which the person is convicted, it is so classified at the time of the person's conviction.
  - (2) Other crime of dishonesty or moral turpitude. A person who has been convicted in any jurisdiction of a crime of dishonesty or moral turpitude, but less serious than a felony, shall be barred from being a court interpreter. The director of the office of professional regulation may waive this prohibition based on mitigating factors that include, but are not limited to: length of time since the offense, seriousness of the offense, age of the person at the time of the offense, evidence of the person's good character exhibited since the offense, and the person's candor in the application process.
- g. Disciplinary action in another jurisdiction.* An interpreter who has been barred or suspended from court interpreting in any other jurisdiction due to ethical violations or incompetence shall be similarly prohibited from being a court interpreter in Iowa.

##### **47.1(2) Exceptions to court interpreter qualifications.**

- a. Waiver of qualifications in civil proceedings.* In a civil proceeding when extraordinary circumstances exist, the court may waive one or more of the requirements of rules 47.1(1)(a)-(e). Whenever the court waives one or more of the qualifications under rule 47.1(1), the court must explain the reasons for the waiver on the record.
- b. Waiver of qualifications in criminal proceedings.*
  - (1) For an initial appearance in any criminal case or a simple misdemeanor proceeding in which a defendant will not be incarcerated, the court may waive one or more of the requirements of rules 47.1(1)(a)-(e) when extraordinary circumstances exist. Whenever the court waives one or more of the qualifications under rule 47.1(1), the court must explain the reasons for the waiver on the record.
  - (2) In all other criminal proceedings the court may waive one or more of the requirements of rules 47.1(1)(c)-(e) when extraordinary circumstances exist. The court may not waive the requirements of rules 47.1(1)(a)-(b). Whenever the court waives one or more of the qualifications under rule 47.1(1), the court must explain the reasons for the waiver on the record.

*c. Extraordinary circumstances.* Extraordinary circumstances exist when the court requires an interpreter of a language for which there is no interpreter who meets the qualifications under rule 47.1(1) who is reasonably available given the time constraints for conducting the hearing and the seriousness of the matter before the court.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008]

**Rule 47.2 Appointment of a court interpreter.** Whenever the court learns the services of an interpreter are reasonably necessary to ensure complete and accurate communication with a witness or party, court staff shall select a competent interpreter applying the criteria set forth in these rules. The court shall enter an order appointing the interpreter and setting the level of compensation for the interpreter. When a party needs an interpreter and the court expects the proceedings to be complex or lengthy, the court shall appoint more than one interpreter.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008]

**Rule 47.3 Classification of interpreters — definitions.**

**47.3(1) Class A certified court interpreter for the deaf and hard-of-hearing.** A Class A certified court interpreter for the deaf and hard-of-hearing is an interpreter who is listed on the directory provided by the Iowa Department of Human Rights and who holds a specialist certificate: legal (SC:L) from the National Testing System of the Registry of Interpreters for the Deaf.

**47.3(2) Class B noncertified court interpreter for the deaf and hard-of-hearing.** A Class B noncertified court interpreter for the deaf and hard-of-hearing is an interpreter who is listed on the directory provided by the Iowa Department of Human Rights and who holds a valid comprehensive skills certificate (CSC), a master comprehensive skills certificate (MCSC), or both a certificate of interpretation (CI) and a certificate of transliteration (CT) from the National Testing System of the Registry of Interpreters for the Deaf.

**47.3(3) Class A certified oral language court interpreter.** A Class A certified oral language court interpreter is an interpreter who has done one of the following:

*a.* Satisfied all certification requirements for an oral language interpreter established by the Federal Court Interpreter Certification Program or the National Association of Judiciary Interpreters and Translators.

*b.* Taken court interpreter certification exams developed by the Consortium for Language Access in the Court and achieved scores that meet the requirements for certification established by the supreme court.

*c.* Taken court interpreter certification exams developed by another state or organization that the director of the office of professional regulation determines to be comparable to the consortium exams and achieved scores on the exams that meet the requirements for certification in Iowa.

**47.3(4) Class B noncertified oral language court interpreter.** A Class B noncertified oral language court interpreter is an interpreter who has done one of the following:

*a.* Taken one of the court interpreter certification exams identified in rule 47.3(3) and failed to achieve scores that meet the criteria for certification established by the supreme court but achieved a minimum score of 65 percent correct on each of the three parts of the oral interpretation exam.

*b.* Completed a college-level court interpreter training program approved by the director of the office of professional regulation with a grade point average of at least 3.0.

**47.3(5) Class C noncertified oral language court interpreter.** A Class C noncertified oral language court interpreter is an interpreter who has not met the criteria under rule 47.3(3) or rule 47.3(4) to be a Class A or B oral language court interpreter.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

**Rule 47.4 Disclosures by and objections to a court interpreter.**

**47.4(1)** A Class A certified court interpreter shall be presumed competent to interpret in all court proceedings. The court may, at any time, make further inquiry into the appointment of a particular interpreter.

**47.4(2)** Any disclosures an interpreter makes to the court regarding the interpreter's actual or apparent conflicts of interest or the interpreter's ability to adequately interpret the proceedings shall be made of record.

**47.4(3)** Objections regarding a court interpreter must be made within a reasonable time after the grounds for the objection become apparent. The court shall make rulings on objections of record.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008]

**Rule 47.5 Statewide roster of court interpreters.** The director of the office of professional regulation shall establish, maintain, and publish a statewide roster of court interpreters.

**47.5(1) General requirements.** To be included on the roster, an interpreter must meet the qualifications in rule 47.1 and be a Class A, B, or C court interpreter as defined in rule 47.3.

**47.5(2) Ethics test requirement for all court interpreters.** To be included on the roster, an interpreter must receive a passing score on a written test on the Code of Professional Conduct for Judicial Branch Interpreters, unless the interpreter has taken the same or a similar test in a state that is a member of the Consortium for Language Access in the Court and achieved a score that meets the standard for passing the test established by the supreme court.

**47.5(3) Other test requirements for Class B and C court interpreters.** To be included on the roster after January 1, 2007, a Class B or C interpreter must pass written tests approved by the director of the office of professional regulation that include the following areas: general English vocabulary, legal terminology, and legal procedures. One or more of these test requirements may be waived by the director of the office of professional regulation if the interpreter has taken the same or similar tests in another jurisdiction and achieved scores that meet the standards for passing the tests established in Iowa.

**47.5(4) Court interpreter orientation program.** To be included on the roster, an interpreter must complete the court interpreter orientation program approved by the director of the office of professional regulation. A Class A certified court interpreter is exempted from this requirement, and this requirement may be waived by the director of the office of professional regulation for a Class B or C noncertified interpreter who has completed a similar training program in another jurisdiction.

**47.5(5) Continuing education requirements.** The supreme court shall establish continuing education requirements an interpreter must meet to remain on the roster and, if certified, to retain certification status.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

#### **Rule 47.6 Fees.**

**47.6(1)** The application fee to be an oral or sign language interpreter is \$25. The fee shall be paid to the office of professional regulation at the time the application is filed in that office.

**47.6(2)** The fee to register for the written examination is \$40, unless the applicant already has passed at least one of the three parts of the examination, in which case the registration fee is \$20.

**47.6(3)** The fee for residents to register for the oral examination is \$200 for the first time, and \$150 for subsequent attempts. The fee for nonresidents to register for the oral examination is \$400 regardless of the number of times taken.

[Court Order August 10, 2009]

#### **Rule 47.7 Priorities in the appointment of a court interpreter.**

**47.7(1)** Court interpreters shall be classified in the following order of preference:

- a. Class A certified.
- b. Class B noncertified.
- c. Class C noncertified.

**47.7(2)** Whenever a court requires an interpreter, the court shall appoint an interpreter with the highest classification among those who are reasonably available, giving preference within each classification to those who are on the statewide roster.

**47.7(3)** Upon the appointment of a court interpreter, the court shall include in the record the interpreter's classification and qualifications.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

#### **Rule 47.8 Disciplinary actions.**

**47.8(1) Establishment of a disciplinary process for court interpreters.** The supreme court shall establish a disciplinary process that ensures due process for court interpreters formally accused of misconduct under rule 47.8(2).

**47.8(2) Grounds for discipline.** A court interpreter shall be subject to disciplinary action for any of the following reasons:

- a. Unprofessional or unethical conduct that violates the Code of Professional Conduct for Judicial Branch Interpreters.

b. Conviction, in this state or any other jurisdiction, of a felony or conviction of a lesser crime that involves dishonesty or moral turpitude; a crime is a felony if it is so defined in the jurisdiction where the conviction was entered at the time of the conviction.

c. Disciplinary action taken in conjunction with the interpreter's services in another jurisdiction.

d. Incompetence, which includes but is not limited to, repeated incomplete or inaccurate interpretation that significantly inhibits or distorts communications between a non-English-speaking person and the court or between a non-English-speaking person and that person's attorney.

e. Receipt of a certificate of noncompliance from the Child Support Recovery Unit, pursuant to the procedures set forth in Iowa Code chapter 252J.

f. Receipt of a certificate of noncompliance from the College Student Aid Commission, pursuant to the procedures set forth in Iowa Code chapter 261.

g. Receipt of a certificate of noncompliance from the Centralized Collection Unit of the Department of Revenue, pursuant to the procedures set forth in Iowa Code chapter 272D.

**47.8(3) *Types of sanctions.*** When there are grounds for sanctioning a court interpreter for misconduct, the sanctions may include, but are not limited to, one or more of the following:

a. A private or public reprimand;

b. Refunding fees to a client or government agency for court interpreter services;

c. Requiring that the court interpreter take specified education courses;

d. Requiring that the court interpreter's work be supervised for a period of time;

e. Permanent or temporary suspension of the court interpreter's certification or roster status; or

f. Permanent or temporary bar from being appointed as a court interpreter.

**47.8(4) *Continuing duty to disclose.*** A court interpreter has a continuing duty to disclose to the director of the office of professional regulation any criminal conviction or disciplinary action against the interpreter in another state or federal jurisdiction that could result in disciplinary action under this rule.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009]

**Rule 47.9 Recording of proceedings.** A recording shall be made and maintained of those portions of court proceedings where an oral language court interpreter is used. The audio recording shall be maintained in the same manner as court reporters' notes.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

**Rule 47.10 Court interpreter compensation.**

**47.10(01) *Claims for compensation.*** After the close of proceedings, the interpreter shall submit a claim for compensation to the court. Upon review and approval of the claim, the court shall enter an order setting the maximum amount of compensation that may be paid to the interpreter.

**47.10(2) *Fees for court interpreters.*** The state court administrator shall establish a standard statewide fee schedule for court interpreters.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

**Rule 47.11 Application of rules to administrative agency proceedings.** To the extent an administrative agency is subject to these rules pursuant to Iowa Code section 622A.7 or section 622B.1(2), the agency is responsible for appointing interpreters to appear in agency proceedings and for approving their claims for compensation.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009]

**Rule 47.12 Budget.** The director of the office of professional regulation shall, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget, covering the operations provided for in this chapter for the upcoming fiscal year. Approval of the budget by the court shall authorize payment as provided in the budget. A separate bank account designated as the court interpreter operating account shall be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter



or in accordance with an approved interagency agreement shall be deposited in the court interpreter operating account for payment of the expenditures authorized by the approved budget.

[Court Order February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009]

**Rule 47.13 Applicability of Iowa Tort Claims Act.** Claims against the director, assistant directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

[Court Order June 5, 2008, effective July 1, 2008; August 10, 2009]